



NEW YORK STATE
Eliot Spitzer, Governor

Office of Temporary and
Disability Assistance
David A. Hansell
Commissioner

Office of Children and
Family Services
Gladys Carrión
Commissioner

October 3, 2007

Dear Commissioner:

Governor Eliot Spitzer signed into law Chapter 135 of the Laws of 2007 on July 3, 2007. This legislation amends section 410-w of the Social Services Law regarding families who are eligible for child care in lieu of temporary assistance (TA). The change in law and associated State policy eliminates the requirement that parents/caretakers work at least the minimum number of hours that would be required of them if they were in receipt of temporary assistance and allows OCFS to set a minimum that expands eligibility as described below. The change in law takes effect immediately. A copy of the amendment is enclosed.

The Office of Children and Family Services will be amending child care regulations to meet the new statutory requirements and will issue an Administrative Directive. All employed TA recipients with children under the age of 13, will receive a parent letter in a mailing from the Office of Temporary and Disability Assistance in the near future. The parent letter will be sent to all districts, via the GIS, in advance of the mailing to TA recipients. Additionally, the CNS recertification call in notice will be modified to include information about the in lieu of TA child care guarantee.

A telephone conference will be held on Friday, October 19, from 1:00 p.m. to 3:00 p.m. Audio bridge information is enclosed. In the meantime, social services districts are required to do the following:

- Apply the new child care in lieu of TA child care guarantee rules to applicants and provide them with a copy of the parent letter, once it is available; and
- Notify staff in both the TA and child care offices of the change in eligibility; and
- Begin determining eligibility for in lieu of TA child care guarantee based on the information provided in this letter.

In order to determine eligibility for the in lieu of TA child care guarantee, districts will need to determine if the applicant/recipient meets the following eligibility standards:

1. The parent(s) must be earning at least minimum wage unless he or she is employed in a job where minimum wage is made by the combination of wages and tips or the employment is exempt from minimum wage rules; and
2. The parent(s) gross earned income must be equal to or greater than the amounts listed below or, if employed in a job exempt from minimum wage rules and paying less than minimum wage, he or she must meet the minimum number of work hours indicated below; and
3. The household would otherwise be eligible for TA.

Family	Minimum Gross Earnings	Minimum Number of Hours
Single parent family earning minimum wage or more per hour or self employed	\$125/wk. \$542/mo.	N/A
Two-parent family when both parents are employed earning minimum wage or more per hour or self employed.	\$179/wk. \$774/mo.	N/A
Single parent in a job exempt from minimum wage rules and paying less than minimum wage per hour	N/A	17.5 hours per week
Two-parent family where both parents are employed in a job exempt from minimum wage rules and paying less than minimum wage	N/A	25 hours per week

Note: The above Minimum Gross Earnings amounts are based on a minimum wage of \$7.15 per hour times 17.5 hours per week for a single parent family and 25 hours per week for a two parent family.

Parents may be employed for *less* than the above number of hours provided their earned income is equal to or greater than the above amounts. Self employed parents must meet the above gross earned income minimums. For parents in jobs that are exempt from minimum wage rules and that pay less than minimum wage, the parent(s) must meet the minimum work hours. **The in lieu of TA child care guarantee applies only for hours while both parents are at work and reasonable time for the parent to get to and from work from the day care site.**

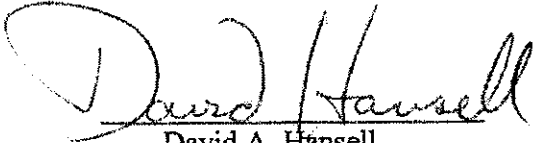
If income falls *below* any of the above respective amounts or *rises to or above* the amount that would allow the parent(s) to remain eligible for TA, the parent(s) will not be eligible for child care in lieu of TA. Once the parent(s) income is at or above the amount that would allow them to remain eligible for TA but is at or below 200% of the State Income Standards, the parent(s) may be eligible for transitional child care.

Calculation of income and hours worked for parents who have fluctuating income will be based on 18 NYCRR 404.5(b)(3) which reads as follows.

“If income fluctuates significantly, the average monthly amount will be based on income received during a period of not less than three or more than six months.”

If you have any questions regarding the above information, please contact Anne Ball at (518) 372-9217 or email Anne.Ball@ocfs.state.ny.us.

Sincerely,



David A. Hansell
Commissioner
Office of Temporary and
Disability Assistance



Gladys Carrión
Commissioner
Office of Children and
Family Services

Enclosure

cc: Child Care Supervisor
Employment Coordinator
Temporary Assistance Director

LAWS OF NEW YORK, 2007

CHAPTER 135

AN ACT to amend the social services law, in relation to expanding resources available for working families to access child care in lieu of public assistance benefits

Became a law July 3, 2007, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision 4 of section 410-w of the social services law, as separately amended by chapters 368 and 369 of the laws of 2001, is amended to read as follows:

(a) Local social services districts shall guarantee applicants who would otherwise be eligible for, or are recipients of, public assistance benefits and who are employed, the option to choose to receive continuing child day care subsidies in lieu of public assistance benefits, for such period of time as the recipient continues to be eligible for public assistance. For the purposes of this subdivision, an eligible applicant for, or recipient of, public assistance benefits and who is employed includes a person whose gross earnings equal, or are greater than, the required number of work hours times the state minimum wage. Recipients of child care subsidies under this subdivision who are no longer eligible for public assistance benefits, shall be eligible for transitional child care described in paragraph (b) of subdivision one of this section as if they had been recipients of public assistance.

§ 2. This act shall take effect immediately.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly

EXPLANATION--Matter in italics is new; matter in brackets [] is old law to be omitted.