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Governor

NEW YORK STATE
OFFICE OF CHILDREN & FAMILY SERVICES
52 WASHINGTON STREET
RENSSELAER, NY 12144

Sheila J. Poole
Acting Commissioner

Local Commissioners Memorandum

Transmittal:	14-OCFS-LCM-04
To:	Local District Commissioners
Issuing Division/Office:	Division of Child Care Services
Date:	May 30, 2014
Subject:	Child Care Subsidy Fraud Regulations
Contact Person(s):	Rhonda Duffney (518) 474-9454 Rhonda.Duffney@ocfs.ny.gov
Attachments:	Attachment A: Desk Aid for Administrative Review Process for Child Care Subsidy Claims Attachment B: Provider Notice of Deferral of Claim(s) for Reimbursement Attachment C: Deferred Claim Review-Claims are Reimbursable Attachment D: Preliminary Review Report-Inaccurate Claim(s) Submitted Attachment E: Final Review Report-Inaccurate Claim(s) Submitted Attachment F: Final Review Report-Inaccurate Claim(s) Unsubstantiated Attachment G: Final Determination-False Claim(s) Substantiated Attachment H: Final Determination-False Claim(s) Unsubstantiated Attachment I: Provider Notice of Disqualification from Receiving Child Care Subsidy Reimbursement Attachment J: Parent Notice of Provider Disqualification from Receiving Child Care Subsidy Reimbursement Attachment K: Notice of Your Responsibilities as an Eligible Provider of Subsidized Child Care
Attachment Available Online:	No

I. PURPOSE

The purpose of this Local Commissioners Memorandum (LCM) is to inform local social services districts (districts) of the regulatory changes to Part 415 of the Rules and Regulations of the State of New York (NYCRR) for child care subsidies funded through

the New York State Child Care Block Grant (NYSCCBG) and the federal Social Security Act.

The Child Care Subsidy Fraud Regulations, which went into effect October 5, 2011, promote the fiscal integrity of the child care subsidy program by establishing a clear, regulatory basis for holding child care providers accountable for committing fraud.

1. 18 NYCRR § 415.4(c)(9) establishes a 30-day timeframe for districts to review and determine whether to allow, disallow, or defer a claim for reimbursement to an eligible provider of subsidized child care and specifies the circumstances when a deferral or disallowance can be made.
2. 18 NYCRR § 415.4(h)(2) delineates the circumstances under which a district may disqualify licensed, registered, and enrolled legally-exempt child care providers from receiving subsidy funds; allows for a district to establish an administrative procedure for internally reviewing claims and imposing a disqualification when the district has determined an eligible provider has submitted false claims; establishes periods of disqualification during which child care providers are ineligible to receive child care subsidies; and requires a district to inform the appropriate New York State Office of Children and Family Services (OCFS) child care regional office of disqualified licensed or registered child care providers, and appropriate legally-exempt enrollment agencies of disqualified enrolled legally exempt providers.
3. 18 NYCRR § 415.4(h)(3) allows districts to make announced or unannounced inspections of the records or premises of any provider of subsidized child care in accordance with a plan approved by OCFS.
4. Subparagraphs were added to 18 NYCRR § 414, 416, 417, 418-1 and 418-2 to clarify the ability of OCFS to revoke/deny renewal of the registrations/licenses of providers who file false child care subsidy claims with districts by clearly stating that all registered school age child care programs, licensed group family day care homes, registered family day care homes, licensed day care centers, and registered small day care centers that accept direct and indirect payments from a district or a payment from a parent or caretaker for providing subsidized child care must comply with all relevant requirements of the Child Care Subsidy Program.
5. 18 NYCRR § 415.12 describes the responsibilities that are applicable to all eligible providers of subsidized child care services. It provides the basis for OCFS to take enforcement action against a licensed or registered provider who is not in compliance with the Child Care Subsidy Program regulations; requires providers of subsidized child care to maintain current and accurate attendance records for each child and certify to the accuracy and truthfulness of information and documentation provided to a district; and reiterates the district's right to act on false or fraudulent claims by deferring or disallowing payment on claims, referring a provider for criminal prosecution, and/or making a referral to OCFS for the revocation of a provider's registration or license to operate a child care program.

II. BACKGROUND

OCFS has oversight responsibilities for the provision of child care subsidies funded under the NYSCCBG for over 223,000 children as of Federal Fiscal Year (FFY) 2013. It also promotes the development of children in a safe, caring, and healthy environment through licensure and registration of over 19,000, child day care programs and the annual enrollment of approximately 39,000 legally-exempt child care providers.

In recent years, concerns regarding program integrity prompted OCFS to take strong steps to minimize waste, fraud, and abuse in the Child Care Subsidy Program and maintain the health and safety of children in child care. According to national estimates, anywhere from 10% to 40% of child care subsidy dollars are spent fraudulently. In October 2010, OCFS hosted a Roundtable Discussion seeking to identify strategies to prevent and eliminate fraud in the Child Care Subsidy Program and to maximize the efficient use of limited child care funds. The roundtable was attended by more than 90 local district staff, fraud investigators, local county prosecutors, child care advocates, and others who discussed what changes were needed in current law, regulations, policies, and procedures, and what would be needed to make those changes. There was consensus among the stakeholders that districts need the regulatory authority to hold fraudulent providers accountable.

III. PROGRAM IMPLICATIONS

It is important to note that nothing contained within this guidance document will diminish the authority of the districts to refer a matter to the appropriate district attorney or law enforcement agency.

OCFS recommends that districts establish timeframes for providers to submit claims, include these timeframes in local written policies, and notify child care providers and parents in writing of these timeframes. OCFS also recommends that districts establish a local payment policy and make every effort to issue a payment to the provider for child care services within 30 days from the date a child care claim is submitted to the district.

Contained in this LCM are model notices that may be used to defer claims, inform providers of various decisions made in the Administrative Review process, and inform child care provider's and parents of child care provider's disqualification. Districts may elect to use these notices or develop their own notices. Also attached to this LCM is a Desk Aid that provides a flow chart of the Administrative Review Process for Child Care Provider Disqualification, see Attachment A: Administrative Review Process for Child Care Providers Disqualification.

A. District Determinations on Payment of Provider Claims for Reimbursement

- 1) Districts have up to 30 days from receipt of a claim for reimbursement from an eligible provider to review the claim and make a payment determination to allow, defer, or disallow a payment. An eligible provider is a licensed, registered, or

enrolled provider who has been found to meet the criteria to participate in the Child Care Subsidy Program. “Eligible provider” is defined in 18 NYCRR § 415.1(g).

- 2) A district may **defer** – that is, postpone the payment determination for – a claim(s) only in the three following circumstances:
 - a) A federal, state, or local government agency has recommended that the district postpone payments, and informed the district that the district is at risk of making payments for services that were not provided in accordance with applicable state regulations. Examples of agencies whose recommendation may be considered include, but are not limited to: NYS OCFS, NYS Office of the State Comptroller, U.S. Government Accountability Office (GAO), New York State Department of Health, applicable county Comptroller, etc. OCFS recommends that the district send a notification of deferral of payment to the implicated child care provider while it completes a more intensive review and makes a determination within 30 days of the date postmarked on the notification of deferral as to whether it will allow or disallow the payment(s) in question.
 - b) The district has conducted an initial review of the claim and found inaccuracies that warrant a more detailed review. OCFS recommends that the district send a notification of deferral of payment to the implicated child care provider while it completes a more intensive review and makes a determination within 30 days of the date postmarked on the notification of deferral as to whether it will allow or disallow the payment(s) in question.
 - c) The district has been notified of the existence of a pending criminal charge against the provider involving fraud. “Pending” means that there are open criminal charges against the provider that have not yet reached disposition. In such instances, the district can defer its determination about payment until the charges have reached disposition.

When a district defers a claim, regardless of the circumstances, they must notify the provider, in writing, of the claims that have been deferred (see Attachment B: Provider Notice of Deferral of Claim(s) for Reimbursement). The district should conduct a more intensive review and inform the affected provider of the district’s determination within the 30-day timeframes unless there is a pending criminal charge (see Attachment C: Deferred Claim Review-Claims are Reimbursable or Attachment D: Preliminary Review Report-False Claims Submitted).

- 3) In accordance with 18 NYCRR § 415.4(c)(9)(iii), districts may **disallow** claims for reimbursement for services provided to children receiving a subsidy for the time period in which OCFS has determined that:
 - a) A licensed or registered provider is found to be operating or has operated over its licensed or registered capacity. A district may disallow subsidy payments for the number of children over the provider’s licensed or registered capacity, but this number shall not exceed the total number of subsidized children during the period of time the program was overcapacity. For example, a program has a licensed capacity of 50 children. After investigation, it was determined that the program is caring on a full time basis for 55 children, which is five children over its licensed

capacity. Six of the 55 children are subsidized. In this example, the district may choose to disallow payments for five of the six children at the highest payment rate. The disallowance may be held from future subsidy payments.

- b) An enrolled legally-exempt family child care or in-home child care provider is caring for, or has cared for, more children than the limits defined in 18 NYCRR § 415.1(h), which stipulates that informal child care does not include members of the child's or caretaker's public assistance unit, nor does it include other adult members of the child care service unit except the child's sibling. For example, an enrolled legally-exempt in-home child care provider who is in receipt of Temporary Assistance (TA) is receiving child care subsidy payments to care for her sibling and an unrelated infant. After an investigation, it was determined that the provider and the provider's sibling are in the same TA filing unit and therefore the provider is not eligible to receive child care subsidy payments to care for her sibling. In this example, the district would disallow payment for the provider's sibling. The provider's sibling may continue to receive child care subsidy as long as the care is provided by an eligible provider who is not a member of the TA filing unit
- c) An enrolled legally-exempt provider is found to be operating or operated, a child care program which was required to be licensed or registered, without obtaining such license or registration. For example, an enrolled legally-exempt family child care provider is caring for two siblings; the mother of the two children now brings her infant to this provider. After an investigation, it was determined that the enrolled legally-exempt provider was caring full-time for all three children. In this example, the district may choose to disallow payments for one of the three children at the highest payment rate.

B. Reasons for District Disqualification of Providers from Receiving Child Care Subsidy Payments

- 1) A district may **disqualify** licensed, registered, and enrolled legally-exempt child care providers from receiving subsidy funds if any of the following circumstances occurs:
 - a) The provider is criminally convicted of child care subsidy fraud.
 - b) The provider is found to be civilly liable for child care subsidy fraud.
 - c) The provider has voluntarily admitted, in writing, to filing a false claim for reimbursement for child care services.
 - d) The provider has been disqualified from the Child and Adult Care Food Program by the New York State Department of Health or its sponsoring agency for submission of false information on the application, submission of a false claim for reimbursement, or failure to keep required records.
 - e) The provider has failed to comply with the terms of a repayment plan with the district.
 - f) The provider has a conviction of any activity that occurred in the past seven years that indicated a lack of business integrity. For some examples, see articles from the New York State Penal Law: Article 156, Offenses Involving Computers;

Article 158; Welfare Fraud; Article 170, Forgery; Article 175, False Written Statements; Article 176, Insurance Fraud; Article 177, Health Care Fraud; Article 180, Bribery; Article 185, Frauds on Creditors; Article 187, Residential Mortgage Fraud; Article 190, Other Frauds; Article 195, Official Misconduct; Article 200, Bribery Involving Public Servants.

- g) The provider has been found by a district, after completion of an Administrative Review in accordance with 18 NYCRR § 415.4(h)(2)(ii), to have submitted a false claim(s) to a district for reimbursement. (See below: Administrative Review by the District)

C. Administrative Review by the District for Child Care Provider Disqualification

A district may conduct an *Administrative Review* of a provider's claims submitted for reimbursement to determine the accuracy of the information contained in the claims. If, after the completion of the Administrative Review, the district has determined that the provider submitted a false claim(s), the district may disqualify the provider from providing subsidized child care.

The Administrative Review must include the following:

- 1) ***Review of Claims and/or Payments:*** The district will conduct a review of the claims and/or payments and any other information or documentation obtained by the district to determine the accuracy of the information contained in the claims. If the district determines that deferred claims are accurate the district will reimburse the claims and send written notice to the provider (See Attachment C: Deferred Claim Review-Claim(s) are Reimbursable).
- 2) ***Preliminary Review Report Issued to the Provider:*** If after a review of the claims and/or payments, a district determines that a provider submitted inaccurate information in the claims, then a Preliminary Review Report must be prepared by the district and sent to the child care provider that is the subject of the Administrative Review for a response (see Attachment D: Preliminary Review Report-Inaccurate Claim(s) Submitted). The district must inform the child care provider of the following:
 - a) The district has reviewed claims and made a preliminary determination that inaccurate claims for payment have been submitted.
 - b) The dates and hours of the child care services, the amount billed, and the names of the affiliated subsidy eligible child(ren) the district determined as inaccurate.
 - c) The child care provider has 20 days, from the date postmarked on the Preliminary Review Report to respond.
 - d) The child care provider may respond by presenting written evidence and arguments that the provider believes refute the findings of the Preliminary Review Report or the child care provider, may request in writing, a Formal Review by the

district, which allows the provider, or his or her designee, to present evidence and arguments, in person, in support of his/her position.

- 3) ***Provider's Response to Preliminary Review Report:*** There are three possible provider responses to a Preliminary Review Report: provider non-response, provider responds in writing, provider requests Formal Review.
- a) ***No Response to Preliminary Review Report from Provider—Preliminary Review Report becomes Final Determination:*** If the district does not receive a written response from the provider who is the subject of the Administrative Review within 20 days from the date of the postmark of the Preliminary Review Report, this report becomes the basis for the district to issue the Final Determination (see Attachment G: Final Determination-False Claim(s) Substantiated). Such Final Determination may be the basis for a district to disqualify a provider from providing subsidized child care. If a provider fails to respond to the Preliminary Review Report, the provider cannot request a Formal Review after the Final Determination has been made.
 - b) ***Provider Responds to the Preliminary Review Report in Writing:*** If the district receives a response from the child care provider, who is the subject of the Administrative Review, within 20 days from the date of the postmark of the Preliminary Review Report, the district:
 - i. must evaluate the evidence and arguments presented in writing or in person by the provider;
 - ii. make appropriate changes to the Report based on the evidence and arguments presented by the provider, before issuing the Final Review Report (see below Final Review Report).
 - c) ***Provider Responds to the Preliminary Review Report with a written request for a Formal Review:*** If the district receives a written request for a Formal Review within 20 days from the date of the postmark of the Preliminary Review Report, the district must:
 - I. conduct a Formal Review within 30 days of receipt of the request;
 - II. notify the provider, in writing, five or more days in advance of the Formal Review date;
 - III. allow a provider, or his or her designee, to present evidence and arguments, in person, in support of the provider's position;
 - IV. evaluate the evidence and arguments presented in writing or in person by the provider and or his or her designee;
 - V. make appropriate changes to the findings before issuing the Final Determination.
- 4) ***Final Review Report Issued to the Provider:*** A Final Review Report must be sent to the child care provider that is the subject of the Administrative Review and it must describe how the district reached its determination (see Attachment E: Final Review

Report – Inaccurate Claim(s) Submitted and Attachment F: Final Review Report – Inaccurate Claim(s) Unsubstantiated).

- a) The district must state what reliance, if any, it placed upon documents/arguments received from the provider in opposition to the district’s findings, including any additional documentation provided by the provider in response to the Preliminary Review Report.
 - b) A child care provider, upon receipt of a Final Review Report, must be given 10 days from the date of the postmark of the Final Review Report to respond, and to request, in writing, a Formal Review by the district.
 - c) If a district does not receive a written request for a Formal Review within 10 days from the date of the postmark of the Final Review Report, this will finalize the report.
- 5) **Formal Review:** A district, upon written receipt of a request for a Formal Review within the required timeframes stated above by a provider, or his or her designee, must:
- a) Conduct a Formal Review within 30 days of receipt of the request;
 - b) Notify the provider, in writing, five or more days in advance of the Formal Review date;
 - c) Allow a provider, or his or her designee, to present evidence and arguments, in person, in support of the provider’s position; and
 - d) Evaluate the evidence and arguments presented in writing or in person by the provider and or his or her designee;
 - e) Make appropriate changes to the findings before issuing the Final Determination.
- 6) **Final Determination Issued to the Provider**
- a) After reviewing the evidence and arguments supplied by a provider, or his or her designee, at a Formal Review, the district must make a Final Determination to uphold, amend or reverse the findings contained in the Preliminary Review or Final Review Report. Within 30 days of the Formal Review, the district must issue a Final Determination Report (see Attachment G Final Determination-False Claims(s) Substantiated and Attachment H: Final Determination-False Claim(s) Unsubstantiated).
 - b) A final determination that a provider submitted false claims may be the basis for a district to disqualify a provider from providing subsidized child care (see section D below for required notifications of provider disqualifications).

D. Duration of District Disqualification of Providers from Receiving Child Care Subsidy Payments

A provider who has been disqualified by a district from receiving payment for child care services provided under the Child Care Subsidy Program is ineligible to receive such services through any district for five years from the date of the disqualification. If after five (5) years from the date of the disqualification, such provider paid full restitution of any and all falsely obtained funds to the district then the provider will be eligible to provide subsidized child care. However, if after five (5) years from the date of the disqualification, such a provider did not make full restitution to the district, then the provider will remain ineligible to provide subsidized child care indefinitely.

E. Required Notifications of District Disqualifications of Providers from Receiving Child Care Subsidy Payments

When a district disqualifies a licensed, registered, or enrolled legally-exempt child care provider from receiving subsidy funds, the following notifications must be issued:

- 1) ***Child Care Provider:*** The district must notify the child care provider, in writing, within ten (10) days upon reaching the decision to disqualify the provider (see Attachment I: Provider Notice of Provider Disqualification form Receiving Child Care Subsidy Reimbursement). In determining the date of disqualification the district must allow the parent/caretaker time to locate an eligible child care provider, therefore, the provider disqualification date should be made two weeks from the date of the provider notice of disqualification.
- 2) ***Parent/Caretaker:*** The district must notify, in writing, the parent/caretaker within ten (10) days upon reaching the decision to disqualify the provider. This notification to the parent must indicate that the district's decision to disqualify a provider from child care subsidy payment has no bearing on the parent's continuing eligibility for child care services, as long as the parent finds a different, eligible provider (see Attachment J: Parent Notice of Provider Disqualification from Receiving Child Care Subsidy Reimbursement). In addition, the district should include the name and contact information of the local Child Care Resource and Referral agency to assist the parent/caretaker with finding child care.
- 3) ***OCFS Division of Child Care Services Home Office and Enrollment Agency or Regional Office:*** The district must send written notice of all provider disqualifications to both OCFS Division of Child Care Services Home Office and the appropriate Enrollment Agency when the disqualified provider is an enrolled legally exempt child care provider or the appropriate OCFS child care Regional Office Manager when the disqualification pertains to a licensed or registered child care provider. Said notification must identify the provider who is being disqualified, and include the reason(s) for the disqualification and the timeframe of the disqualification i.e., a minimum of five years or indefinitely in adherence to the regulation (see Attachment I: Provider Notice of Provider Disqualification form Receiving Child Care Subsidy Reimbursement).

- 4) ***Legally Exempt Child Care Provider:*** The Enrollment Agency must notify the legally exempt child care provider that he/she is disqualified from receiving child care subsidies and his/her enrollment is terminated. OCFS CCFS LE 010: Notice of Termination of Enrollment Legally-Exempt Child Care will be used by the Enrollment Agency.

F. Recording Child Care Provider Disqualifications in the Child Care Facility System (CCFS)

If the provider who has been disqualified by the district is an enrolled legally-exempt provider, the district must provide the Enrollment Agency with the disqualification start and end date. The enrollment agency must document the district's disqualification and the termination of enrollment of the provider in the Child Care Facility System (CCFS), the State system of record for child care providers.

If the provider who has been disqualified by the district from receiving child care subsidy funding, is a licensed or registered provider, the district must provide the OCFS child care Regional Office with the disqualification start and end date. The OCFS child care Regional Office will enter the child care subsidy disqualification start and end date in CCFS. The disqualification from receiving child care subsidy funding may affect the provider's license or registration.

G. Other Sources of Information

1) *Announced and Unannounced Inspections by Social Services Districts*

In accordance with OCFS regulations, districts may conduct announced or unannounced inspections of the records and premises of any child care provider that provides care for subsidized children. Subsequently, a social services district must inform the appropriate OCFS child care Regional Office of any violations of child care subsidy regulations, where applicable, and must provide the Regional Office with an inspection report documenting the results of the inspection.

This does not take away the district's right to conduct an audit or fraud investigation of a child care provider. Districts have the authority to examine all of a provider's payment records, including those of private pay families, to determine if the provider is charging more for subsidized child care than for private pay, in violation of state regulation 18 NYCRR 415.6(e)(2).

2) *New York State Department of Health Child and Adult Care Food Program (CACFP)*

CACFP is a meal reimbursement program that helps child care providers serve nutritious meals and snacks to the children in their care. CACFP Sponsor agencies are required to conduct three on-site monitoring reviews of participating providers per year. CACFP encourages its Sponsor agencies to share child enrollment and attendance records for any participating provider, regardless of modality, with local social services districts for the purpose of investigating child care subsidy fraud. Districts may also contact CACFP to request information about specific providers.

H. Compliance of Subsidized Child Care Providers with OCFS Regulations

- 1) ***Provider Responsibilities:*** Districts must notify all eligible providers who are in receipt of child care subsidy funds of their responsibilities for complying with OCFS regulations (see Attachment K: Notice of Your Responsibilities as an Eligible Provider of Subsidized Child Care). Providers of subsidized child care must:
 - a) Adhere to all applicable OCFS regulations when operating their program and sign an agreement that sets forth and underlines their responsibilities when participating in the Child Care Subsidy Program;
 - b) Maintain current and accurate daily attendance records at the program site for each child, showing the date of attendance with the time of arrival and departure, and noting full day absences, where applicable;
 - c) Certify that all documents and information provided to the district are accurate and true and that any false claims for payments by a provider may result in the deferral or disallowance of payment for such claims, a referral to OCFS for the revocation of a provider's license or registration, and/or a referral for criminal prosecution; and
 - d) Not charge more for subsidized child care than the provider charges for private pay child care.
- 2) ***Provider Non-Compliance:*** Districts may request that OCFS initiate an enforcement action against child care providers who receive child care subsidies and are found to be non-compliant with the subsidy regulations. A district seeking such action shall contact the appropriate OCFS child care Regional Office and present such evidence as requested by the Regional Office of the provider's non-compliant actions, where appropriate.

IV. SYSTEM IMPLICATIONS

This LCM has no Welfare Management System or Child Care Time and Attendance system implications.

V. CONTACT PERSONS

If you have any program questions regarding information contained in this LCM, contact Rhonda Duffney of the Division of Child Care Services at (518) 474-9454 or Rhonda.Duffney@ocfs.ny.gov

If you need to contact an OCFS Regional Manager about a potential enforcement action against a regulated child care provider, contact the following:

OCFS Region 1 (Buffalo Regional Office): Patricia Harper at (716) 847-3828;
Patricia.Harper@ocfs.ny.gov

OCFS Region 2 (Rochester Regional Office): Terry Chylinski at (585) 238-8531;
Terry.Chylinski@ocfs.ny.gov

OCFS Region 3 (Syracuse Regional Office): Dianne McLaughlin at (315) 423-1202;
Dianne.McLaughlin@ocfs.ny.gov

OCFS Region 4 (Albany Regional Office): Tracey Turner at (518) 402-3038;
Tracey.Turner@ocfs.ny.gov

OCFS Region 5 (Spring Valley Regional Office): Frances Franco-Montero at
(845) 708-2400; Frances.Franco-Montero@ocfs.ny.gov

OCFS Region 6 (NYC Regional Office): Patricia Lewis at (212) 383-1415;
Patricia.Lewis@ocfs.ny.gov

OCFS Region 7 (Long Island Regional Office): Robin Beller at (631) 342-7100;
Robin.Beller@ocfs.ny.gov

/s/ Janice M. Molnar

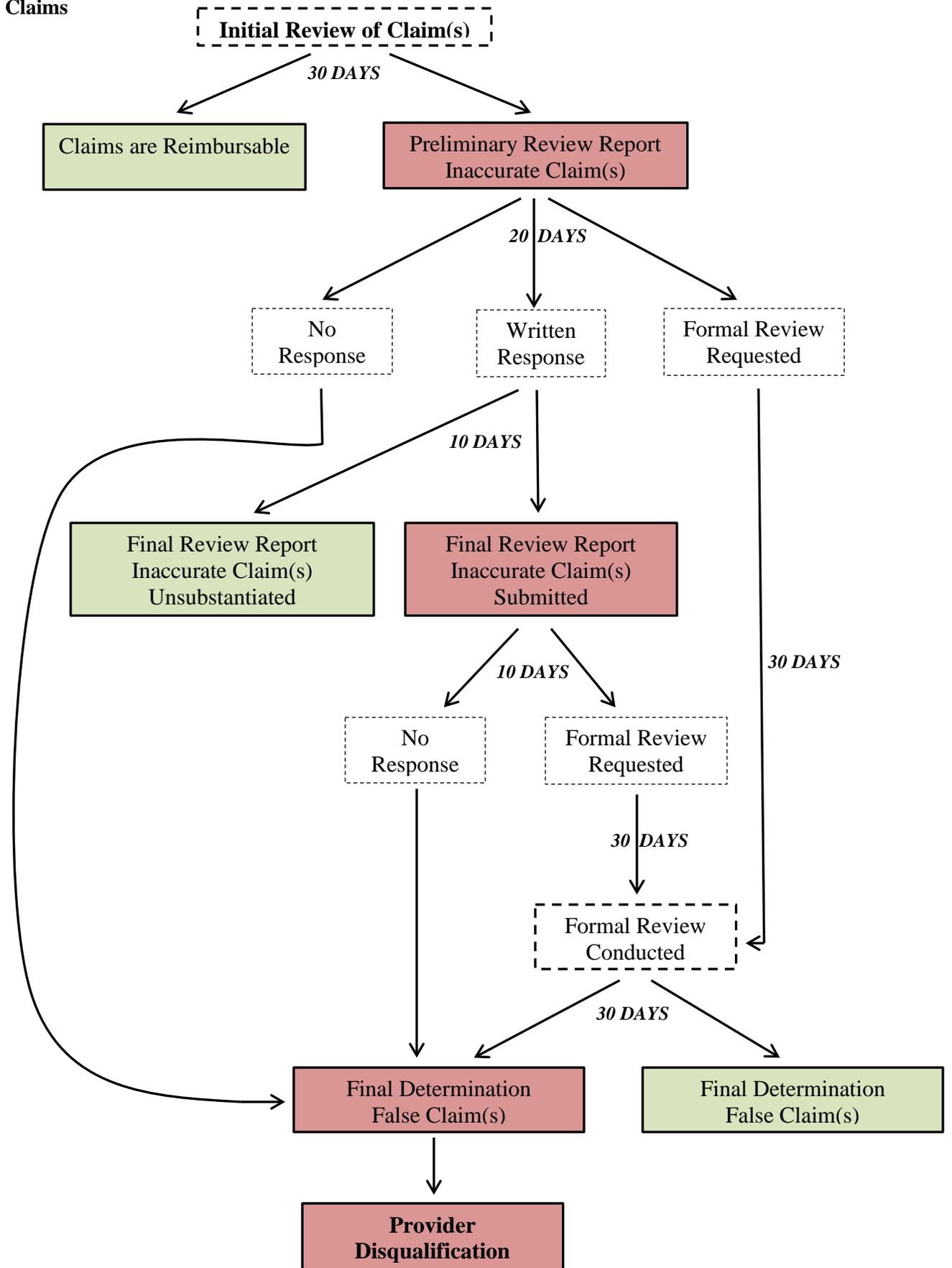
Issued By:

Janice M. Molnar Ph.D.

Deputy Commissioner

Division of Child Care Services

Attachment A: DESK AID for Administrative Review Process for Child Care Subsidy Claims



Attachment B: Provider Notice of Deferral of Claim(s) for Reimbursement

[County Name and Address/Logo]

[Date]

[Provider Name and Address]

Provider Notice of Deferral of Claim(s) for Reimbursement

Dear [Child Care Provider]:

This notice is to advise you that the [local social services district] is deferring or postponing your claim(s) for reimbursement for the following:

Child's Name	Service Date(s) and Time in /Time out	Amount of Deferred Claim(s)

Following Title 18 of the New York State Codes Rules and Regulations § 415.4(c)(9)(ii), the local social services district is deferring the claim(s) listed above for the following reason(s):

- The district has conducted an initial review of the claim(s) and found inaccuracies that warrant a more detailed review.
- A federal, state, or local government agency has recommended that the district postpone payments because the district is at risk of making payments for services that were not provided in accordance with applicable state regulations.
- The district has been notified of the existence of a pending criminal charge against you involving fraud.

The social services district has begun an administrative review of the claim(s) in accordance with 18 NYCRR § 415.4(h)(2)(ii) You will be notified, in writing, of our decision.

Sincerely,

Attachment C: Deferred Claim Review—Claim(s) are Reimbursable

[County Name and Address/Logo]

[Date]

[Provider Name and Address]

Deferred Claim Review—Claim(s) are Reimbursable

Dear *[Child Care Provider]*:

You were previously notified that the *[local social services district]* deferred or postponed payment of your claim(s) for reimbursement for providing child care services under the child care subsidy program. We have reviewed those deferred claim(s) listed below, and found that **the claim(s) are reimbursable and will be paid.**

CLAIMS		
Child's Name	Service Date(s) and Time in / Time Out	Amount of Deferred Claim(s)

Any reviewed claims that were found to be accurate and were previously deferred are now eligible for payment. Payment of those claim(s):

- Is included with this notice.
- Will be sent at a later date.

No response is required by you at this time. Thank you for your cooperation.

The social services district retains its rights to review these and any other claims made by you and/or payments made to you for providing child care services under the subsidy program as new claims and evidence are received in the future.

Sincerely,

Attachment D: Preliminary Review Report—Inaccurate Claim(s) Submitted

[County Name and Address/Logo]

[Date]

[Provider Name and Address]

Preliminary Review Report—Inaccurate Claim(s) Submitted

Dear [Child Care Provider]:

This notice is to advise you that the [local social services district] has conducted a Preliminary Review of claim(s) for subsidized child care reimbursement in accordance with Title 18 of the New York Code of Rules and Regulations § 415.4(h)(2)(ii)(a). We have found that you **submitted inaccurate claim(s)** and are **ineligible for payment(s)** of the following:

CLAIMS REVIEWED		
Child's Name	Service Date(s) and Time in / Time out	Amount of Claim(s)

This decision was based on the following reason(s)/documentation:

What does this mean for you?

The purpose of this Administrative Review Process is to allow you the opportunity to refute the district's findings, and for the district to make a Final Determination as to whether or not you submitted false claim(s) for reimbursement to the Child Care Subsidy Program. If there is a Final Determination that you submitted false claim(s), **you will be required to repay any overpayments** that the district identifies during the course of their review, and the district **may disqualify you from receiving child care subsidy for a minimum period of five (5) years.**

Your Response Options pursuant to 18 NYCRR § 415.4(h)(2)(ii)(b)&(c):

Option 1: You may respond in writing presenting evidence and arguments that you believe refute the findings of the Preliminary Review. In order to be considered, your response must be received by the social service district within 20 days from the postmarked date of this letter. Please send your response to:

Option 2: You may request, in writing, a formal review by the social services district, where you, or your designee, will be allowed to present evidence and arguments in person in support of your position. In order to be granted a formal review, your response must be received by the social services district within 20 days from the postmarked date of this letter. Please send your response to: _____

Option 3: If you do not respond within 20 days from the postmarked date of this Notice, the findings of the Preliminary Review will become Final, and you will not receive payment for any deferred claim(s) listed above, or if you have received any payment(s) that you were not eligible for, you will be required to repay that amount. Additionally, you may be disqualified from receiving payment for child care services provided under the child care subsidy program for a minimum period of five (5) years. Failure to repay the full amount of money that you were ineligible to receive may disqualify you from receiving payment for child care services under the Child Care Subsidy Program indefinitely.

The social services district retains its rights to pursue other administrative, civil, or criminal remedies in connection with this matter, as determined appropriate.

Sincerely,

Your Response Options pursuant to 18 NYCRR § 415.4(h)(2)(ii)(e):

Option1: You may request, in writing, a formal review by the social services district, where you, or your designee, will be allowed to present evidence and arguments in person in support of your position. In order to be granted a formal review, your response must be received by the social services district within 10 days from the postmarked date of this letter. Please send your response to: _____

Option2: If you do not request a Formal Review within 10 days from the postmarked date of this Notice, the findings of the Final Review will become the Final Determination, and you will not receive payment for any deferred claim(s) listed above, or if you have received any payment(s) that you were not eligible for, you will be required to repay that amount. Additionally, you may be disqualified from receiving payment for child care services provided under the child care subsidy program for a minimum period of five (5) years. Failure to repay the full amount of money that you were ineligible to receive may disqualify you from receiving payment for child care services under the child care subsidy program indefinitely.

The social services district retains its rights to pursue other administrative, civil, or criminal remedies in connection with this matter, as determined appropriate.

Sincerely,

**Attachment F: Final Report of Administrative Review—Inaccurate Claim(s)
Unsubstantiated**

[County Name and Address/Logo]

[Date]

[Provider Name and Address]

Final Report of Administrative Review—Inaccurate Claim(s) Unsubstantiated

Dear *[Child Care Provider]*:

This notice is to inform you that the *[local social services district]* has conducted a final review of the additional information that you provided regarding the claim(s) and/or payment(s) listed below, and we found that **the claim(s) are reimbursable and will be paid.**

CLAIMS REVIEWED		
Child's Name	Service Date(s) and Time in / Time Out	Amount of Deferred Claim(s)

Any reviewed claims that were found to be accurate and were previously deferred are now eligible for payment. Payment of those claim(s):

- Is included with this notice.
- Will be sent at a later date.

No response is required at this time. Thank you for your cooperation.

The social services district retains its rights to review these and any other claims made by you and/or payments made to you for providing child care services under the subsidy program as new claims and evidence are received in the future.

Sincerely,

Attachment G: Final Determination—False Claim(s) Substantiated

[County Name and Address/Logo]

[Date]

[Provider Name and Address]

Final Determination—False Claim(s) Substantiated

Dear [Child Care Provider]:

The [local social services district] has considered all available documentation and evidence. Pursuant to Title 18 of the New York Code of Rules and Regulations § 415.4(h)(2)(ii)(h), we have made a Final Determination that you **submitted a false claim(s)** and are **ineligible for payments** on the following claim(s):

CLAIMS REVIEWED		
Child's Name	Service Date(s) and Time In/Time Out	Amount of Claim(s)

This decision was based on the following reason(s)/documentation:

You will not receive payment for any deferred claim(s) listed above that have been found ineligible for payment.

If you have received any payment(s) that you were not eligible for, you will receive a Notice of Overpayment with the amount owed and payment instructions. Additionally, you may be disqualified from receiving payment for child care services provided under the child care subsidy program for a minimum period of five (5) years. Failure to repay the full amount of money that you were ineligible to receive may disqualify you from receiving payment for child care services under the child care subsidy program indefinitely.

The social services district retains its rights to pursue other administrative, civil, or criminal remedies in connection with this matter, as determined appropriate.

Sincerely,

Attachment H: Final Determination—False Claim(s) Unsubstantiated

[County Name and Address/Logo]

[Date]

[Provider Name and Address]

Final Determination— False Claim(s) Unsubstantiated

Dear *[Child Care Provider]*:

The *[local social services district]* has considered all available documentation and evidence. Pursuant to Title 18 of the New York Code of Rules and Regulations § 415.4(h)(2)(ii)(h), we have made a Final Determination that **the claims are reimbursable**. The claim(s) included in this review are listed below.

CLAIMS REVIEWED		
Child's Name	Service Date(s) and Time In / Time Out	Amount of Claim(s)

Any reviewed claims that were found to be accurate and were previously deferred are now eligible for payment. Payment of those claim(s):

- Is included with this notice.
- Will be sent at a later date.

No response is required at this time. Thank you for your cooperation.

The social services district retains its rights to review these and any other claims made by you and/or payments made to you for providing child care services under the subsidy program as new claims and evidence are received in the future.

Sincerely,

Attachment I: Provider Notice of Disqualification from Receiving Child Care Subsidy Reimbursement

[County Name and Address/Logo]

[Date]

[Provider Name and Address]

[Provider's Vendor ID]

Provider Notice of Disqualification from Receiving Child Care Subsidy Reimbursement

Dear [Child Care Provider]:

This notice is to advise you that the [local social services district] has **disqualified** you from receiving child care subsidy reimbursement for a **minimum period of five (5) years**. The regulations that allow us to take this action are Title 18 of the New York State Codes Rules and Regulations § 415.4(h)(2)(ii)(h) & § 415.4(h)(2)(iii).

If after five (5) years from the effective date of the disqualification, you make full restitution of all falsely obtained funds to the social services district, you will be eligible to provide subsidized child care. However, if after five (5) years from the effective date of the disqualification, you have not made full restitution to the social services district, you will remain ineligible to provide subsidized child care indefinitely.

The effective date of your disqualification is _____ .

Disqualification Reason

You have been disqualified from receiving child care subsidy reimbursement because:

<input type="checkbox"/>	You have been criminally convicted of fraud.
<input type="checkbox"/>	You have been found to be civilly liable for fraud.
<input type="checkbox"/>	You voluntarily admitted to filing a false claim for reimbursement for child care services.
<input type="checkbox"/>	You were disqualified from the Child and Adult Care Food Program, by the New York State Department of Health and/or its sponsoring agency, for submission of false information on the application, submission of a false claim for reimbursement or failure to keep required records.
<input type="checkbox"/>	You failed to comply with the terms of a repayment plan with the social services district.
<input type="checkbox"/>	You have been convicted of an activity that occurred in the past seven (7) years that indicated a lack of business integrity.
<input type="checkbox"/>	You have been found by a social services district, after the social services district has conducted an administrative review, to have submitted a false claim(s) to the social services district for reimbursement.

Our exercise of regulatory authority does not waive the social services district's rights to pursue other administrative, civil, or criminal remedies in connection with this matter, as determined appropriate.

Sincerely,

Copy 1: OCFS Division of Child Care Services Home Office

Copy 2: Regional Office (if licensed or registered) OR Enrollment Agency (if enrolled legally exempt)

Attachment J: Parent Notice of Provider Disqualification from Receiving Child Care Subsidy Reimbursement

[County Name and Address/Logo]

[Date]

[Parent(s) Name and Address]

Parent Notice of Provider Disqualification from Receiving Child Care Subsidy Reimbursement

Provider Name: _____

Effective Date of Provider Disqualification: _____

Dear *[Parent(s) Name]*:

This notice is to advise you that *[local social services district]* has **disqualified your child care provider** from receiving child care subsidy reimbursement. Your child care provider will be disqualified from receiving payment for child care services provided under the child care subsidy program through any social services district for a minimum period of **five (5) years**. The regulations that allow us to take this action are Title 18 of the New York State Codes Rules and Regulations § 415.4(h)(2)(ii)(h) & § 415.4(h)(2)(iii).

The provider's disqualification **does not affect your eligibility for child assistance**. However, you must select a different child care provider who is eligible to provide subsidized child care. An eligible child care provider is any provider that is licensed, registered, or enrolled and has not been disqualified from receiving child care subsidy reimbursement.

If you need assistance finding another child care provider, you can contact *[Child Care Resource and Referral Name and phone number]*. Information about child care providers is also available on the New York State Office of Children and Family Services website at <http://ocfs.ny.gov/main/childcare/looking.asp>.

If you decide to continue to use the provider listed above after the disqualification date, the social services district will not pay the provider and you will be responsible for paying the provider for services provided.

If you have questions about your eligibility, please contact *[worker name]* at *[worker phone number]*.

Sincerely,

Attachment K: Notice of Your Responsibilities as an Eligible Provider of Subsidized Child Care

Notice of Your Responsibilities as an Eligible Provider of Subsidized Child Care

Dear Child Care Provider:

This notice is being sent to you to advise you of **your responsibilities** as an eligible provider of subsidized child care.

1. **Compliance with NYS Regulations.** You must operate your child care program in compliance with all applicable New York State Office of Children and Family Services (OCFS) regulations. Failure to do so may result in OCFS taking enforcement action pursuant to Title 18 of the New York Code of Rules and Regulations § 413.3. You can find the full text of the regulations on the OCFS website http://www.ocfs.state.ny.us/main/childcare/daycare_regs.asp.
 - a. Child care subsidy program regulations can be found in 18 NYCRR § 415.
 - b. Some child care provider regulations are specific to your provider type. You can use the chart below to find regulations that apply specifically to your provider type.

Eligible Provider Type	NYS Regulations
Enrolled Legally-Exempt In-Home Child Care Provider	18 NYCRR § 415
Enrolled Legally-Exempt Family Child Care Provider	
Enrolled Legally-Exempt Group Child Care Provider	
Registered Family Day Care Home	18 NYCRR § 417 & 413
Registered School Age Child Care	18 NYCRR § 414 & 413
Licensed Group Family Day Care Home	18 NYCRR § 416 & 413
Licensed Child Day Care Center	18 NYCRR § 418-1 & 413
Registered Small Child Day Care Center	18 NYCRR § 418-2 & 413
Public school district operating a child care program that meets State and Federal Requirements	18 NYCRR § 413

2. **Attendance Records.** You must, keep current and accurate attendance records for each child on a daily basis at the child care site. The records must show the date of attendance, the time of arrival, and time of departure. Full day absences must also be recorded.
3. **True and Accurate Claims for Reimbursement.** You must submit true and accurate attendance information to the social services district for reimbursement for providing child care to a child receiving a subsidy. Any false or fraudulent claims for payments by a provider may result in:
 - a. Deferral or disallowance of payment(s) for such claims with a social services district;
 - b. Referral to the New York State Office of Children and Family Services Regional Office or Enrollment Agency, which may lead to revocation of a provider's registration or license, or termination of enrollment;
 - c. Referral for criminal prosecution; and/or
 - d. Disqualification to provide subsidized child care for five (5) or more years.
4. **Subsidized Child Care Charges.** You must not charge more for subsidized child care than you charge for non-subsidized care.