



# Office of Children and Family Services

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## Administrative Directive

<b>Transmittal:</b>	21-OCFS-ADM-14
<b>To:</b>	Commissioners of Social Services
<b>Issuing Division/Office:</b>	Division of Child Care Services
<b>Date:</b>	June 29, 2021
<b>Subject:</b>	<b>Changes to Child Care Subsidy Regulations 2021: Family Share and Applicability of Part 415.0</b>
<b>Suggested Distribution:</b>	Directors of Social Services Directors of Services Directors of Temporary Assistance Supervisors of Day Care Supervisors of Temporary Assistance Child Care Assistance Staff
<b>Contact Person(s):</b>	Child Care Subsidy Program questions: <ul style="list-style-type: none"> <li>Maryellen DeCicco, OCFS Division of Child Care Services, 518-408-3395, <a href="mailto:Maryellen.DeCicco@ocfs.ny.gov">Maryellen.DeCicco@ocfs.ny.gov</a> <a href="mailto:ocfs.sm.districtsupport.subsidy@ocfs.ny.gov">ocfs.sm.districtsupport.subsidy@ocfs.ny.gov</a></li> </ul> Child Care Time and Attendance (CCTA) questions: <ul style="list-style-type: none"> <li><a href="mailto:Support@controltec.com">Support@controltec.com</a> or 877-369-6106</li> </ul> Welfare Management System (WMS) Services questions: <ul style="list-style-type: none"> <li><a href="mailto:ocfs.sm.WMS@ocfs.ny.gov">ocfs.sm.WMS@ocfs.ny.gov</a></li> </ul>
<b>Attachments:</b>	None

### Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
05-OCFS-ADM-03		18 NYCRR 415.0 and 415.3(e)	§ 410-x(6) 410-u		

## I. Purpose

The purpose of this Administrative Directive (ADM) is to inform local social services districts (districts) of changes to Title 18 of the official compilation of Codes, Rules and Regulations of the State of New York (18 NYCRR) Part 415, regarding the provision of child care services funded under the New York State Child Care Block Grant (NYSCCBG) and Title XX of the federal Social Security Act.

## II. Background

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES) was signed into law. With the passage of the CARES Act, New York State received \$163.6 million in emergency relief for the child care system. On December 27, 2020, the Consolidated Appropriations Act, 2021, including the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA), 2021, was signed into law. With the passage of the CRRSA Act, New York State received an additional \$468.8 million in supplemental Child Care and Development Block Grant (CCDBG) funding and emergency relief for the child care system. On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law. The ARPA Act also included multiple types of funding to support the child care industry, including funding for CCDBG as well as funding for COVID-19 child care relief and stabilization. This act provided New York State with an additional \$1.8 billion in total child care funding.

One of the stated purposes of the CARES Act, CRRSA, and ARPA is to help ease financial burdens on families. New York State is using a portion of the available federal funding to lower family share copayments for low-income families receiving child care assistance funded by NYSCCBG and Title XX of the Social Security Act.

The New York State budget for State Fiscal Year 2022 included a statutory amendment to SSL 410-x(6), which took effect on April 16, 2021. This amendment states that a family receiving child care assistance required to pay an income-based portion of a family share cannot be required to contribute more than 10% of its income exceeding the federal poverty level. Previously, SSL 410-x(6) specified no maximum contribution and the range of percentage options were set in regulation. The New York State budget for State Fiscal Year 2022 also included funding to support this amendment. The New York State Office of Children and Family Services (OCFS) will allocate additional funding from the NYSCCBG program in order to support the reduction of the family share.

OCFS filed emergency regulations and a Notice of Proposed Rulemaking on June 16, 2021, to support legislative changes to family share, to expeditiously expand access to child care assistance, and to allow OCFS to obligate and liquidate funds allocated to the NYSCCBG in accordance with timelines under the CARES Act, CRRSA, ARPA, and New York State budget appropriations.

### III. Program Implications

Regulatory changes have been made in the following areas:

#### Applicability of 18 NYCRR Part 415

18 NYCRR 415.0 has been amended to clarify that Part 415 only applies to child care services provided under the portion of the NYSCCBG allocated to social services districts to provide child care assistance to families receiving family assistance and to other low-income families, as defined in Social Services Law Section 410-u, and Title XX of the federal Social Security Act. This change is anticipated to have no implications for the routine administration of NYSCCBG funds by districts.

#### Family Share

18 NYCRR 415.3(e)(3) has been revised to implement the statutory amendment to SSL 410-x(6). Each family receiving child care services, except for a family where the parent(s) or caretaker(s) are receiving public assistance, families experiencing homelessness, or when such assistance is provided to a child in foster care, must contribute toward the costs of the child care services by paying a family share based on the family's income. Previously, districts had the option to choose an income factor of 10 to 35% to calculate the family share. Districts must now choose an income factor of at least 1% but no more than 10%. Districts may choose any whole percentage within this range.

Districts must use the same percentage when calculating family share for all families that are required to pay an income-based family share. The methodology for calculating the family share remains unchanged. The district's chosen family share percentage is applied to the family's gross income that exceeds the state income standard. The state income standard is the most recent federal poverty level, adjusted for family size, and updated annually by OCFS. A minimum weekly family share of one dollar must be charged to each family receiving child care services that is required to pay an income-based portion of a family share, even if this amount is greater than the amount calculated using the new income factor of 1 to 10%.

Families will remain responsible for paying any extra payments beyond the regular family share, including the cost of care charged by providers that exceed the market rates for providers who do not have a contract or rate agreement with the district, as well as additional family share payments that are required as part of a repayment plan with the district to recoup an overpayment.

### IV. Required Action

To facilitate the transition to the new family share percentages, OCFS will be revising Appendix M1 of the Child and Family Services Plan (CFSP), and will automatically amend districts' CFSPs to reflect a 10% family share percentage for those districts whose multiplier is currently greater than 10%. A copy of the amendment will be posted to the OCFS website on the County Plan pages for each district as applicable. Once this change has been implemented, when calculating the family share for newly determined cases, districts must apply the specific percentage (no greater than 10%) to the income in excess of the state income standard.

Districts with cases authorized as of April 16, 2021 or later where the family share was calculated using a multiplier greater than 10% must review all such cases within 45 days of the release of this policy. Such districts must calculate the updated family share retroactive to April 16, 2021, and reimburse caretakers or providers, when applicable. Districts that have had an approved family share percentage of 10% since April 16, 2021, are not required to take any action at this time. Districts may choose to change their family share percentage within the 1% and 10% range in their CFSP at any time, with appropriate notice.

If the family share percentage is lowered (either as required or by district choice), appropriate client notices must be sent to the family and the provider, so that both are aware of the new family share amount. Because such change impacts all open cases with family share differently, the district must use the OCFS-LDSS-4781 form, *Notice of Intent to Change Child Care Benefits and Family Share Payments*, or an approved local equivalent.

Districts that currently have an approved COVID-19 waiver of the family share may continue to waive the family share, until such waiver expires or the district chooses to end it. When such waiver ends, the district must complete the applicable required actions, as outlined above and below.

## **V. Systems Implications**

Districts that use the Child Care Time and Attendance (CCTA) system to process child care subsidy payments must update the “family fee multiplier” in the CCTA system to reflect the new family share percentage, if applicable.

All districts must update the family share percentage in the Welfare Management System (WMS) Title XX Matrix to reflect the new family share percentage, if applicable. After updating the family share percentage in WMS, districts must submit the change for state review through the WMS system.

## **VI. Effective Date**

This ADM is effective upon release.

***/s/ Janice M. Molnar, Ph.D.***

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### **Issued by:**

Name: Janice M. Molnar, Ph.D.

Title: Deputy Commissioner

Division/Office: Division of Child Care Services