



Office of Children and Family Services

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Administrative Directive

Transmittal:	21-OCFS-ADM-32
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Child Welfare and Community Services
Date:	December 22, 2021
Subject:	Long-Stayer Reviews
Suggested Distribution:	Directors of Social Services Foster Care Supervisors Legal Staff Out-of-State Voluntary Agencies
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Attachments:	<i>Long-Stayer Review Form OCFS-5356</i>

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
21-OCFS-ADM-04 21 OCFS ADM 17 21-OCFS-ADM-23		18 NYCRR 428.3, 18 NYCRR 439.2, 18 NYCRR 439.5, 18 NYCRR Part 440	Family First Prevention Services Act (FFPSA) of the Bipartisan Budget Act of 2018 (P.L. 115-123) 42 USC §675a Social Services Law (SSL) §409-h		

I. Purpose

The purpose of this Administrative Directive (ADM) is to notify local departments of social services (LDSS) and voluntary authorized agencies (VAs) of the process required for any youth placed in a Qualified Residential Treatment Program (QRTP) where the LDSS believes that youth may require treatment at the QRTP level of care beyond the statutory timeframes established under the federal Family First Prevention Services Act (FFPSA).

II. Background

The FFPSA, enacted on February 9, 2018, made significant changes to Title IV-E of the Social Security Act with the intent of prioritizing family-based foster care over residential care by limiting federal reimbursement for certain congregate care placements. Additionally, FFPSA promotes interventions that keep children and youth safely with their parents/caretakers or if necessary, and whenever possible, with relatives or others in their community.

III. Program Implications

The intent of FFPSA is to promote a higher quality of care toward an identified treatment outcome in congregate settings that focuses on the child and the child's family. A goal is to reduce lengths of stay and prevent reoccurrence of placement.

With the goal of reducing lengths of stay, FFPSA places an emphasis on foster care stays within congregate care, specifically QRTPs. FFPSA has set placement thresholds for youth in foster care placed in a QRTP. If extensions to the length of stay are necessary, it must be approved by the commissioner of the New York State Office of Children and Family Services (OCFS) or their designee.

In the case of any child who is placed in a QRTP for more than 12 consecutive months or 18 nonconsecutive months (or, in the case of a child who has not attained age 13, for more than six consecutive or nonconsecutive months), the state agency must submit to the secretary of the federal Department of Health and Human Services the signed approval of the head of the state agency for the continued placement of the child in that setting.¹

¹ 42 USC 675a(c)(5).

Regarding youth in the legal custody of OCFS who are placed in a QRTP, OCFS is responsible for managing the assessment and making any recommendation for continued placement of the youth in the QRTP. In such cases, it is anticipated that the applicable voluntary authorized agency and relevant LDSS will work with OCFS in the development of the assessment and recommendation for continued placement.

III. Required Action

To prepare for youth who may require consideration for an extension in QRTPs, LDSSs must create a local review process that comports with the timeframes and requirements identified below and set forth in 18 NYCRR 439.5.

1. Monitor youth's progress and length of stay in QRTPs

- a. LDSSs must be active, regular members in all youth in foster care's support/treatment team meetings.
- b. LDSSs must assess and monitor all youths' service needs, progress toward treatment goals, and plan for the youths' permanency. With that, the LDSSs must monitor youths' lengths of time in QRTPs based on the following thresholds, herein referred to as "threshold dates":
 - i. Any child placed in a QRTP younger than 13 at the time of placement who is in a QRTP for more than six consecutive or six nonconsecutive months
 - ii. Any child placed in a QRTP age 13 or older at the time of placement who is in a QRTP for more than 12 consecutive or 18 nonconsecutive months
- c. OCFS has developed tracking mechanisms within CONNECTIONS to assist in these actions. Case managers, case planners, and case workers in a QRTP with a role in the stage will receive
 - a FFPSA Care Day Clock: daily email reminders generated for children placed in a QRTP; and
 - a password-protected monthly report that will contain children's information, resource information, and the number of days spent in the QRTP.

2. Develop a local long-stayer review process and submit request for any potential extension

The purpose of the long-stayer review is to assess whether the youth has a treatment need that cannot be met at a lower level of care than a QRTP. NOTE: Lack of a current placement option at a lower level of care is not justification for a youth to remain in a QRTP.

- a. LDSSs with care and custody or custody and guardianship of the child must determine who will be responsible for completing the long-stayer review. The individual(s) tasked with assessing and making the recommendations regarding long stayers must have access to the youth and the youth's records to assess the youth's need. They must also complete the *Long-Stayer Review Form* for OCFS. Each LDSS can develop a review protocol that fits its local needs. However, the review must be conducted by either:
 - i. a Qualified Individual (QI)² or

² More information on the QI can be found at: ocfs.ny.gov/main/policies/external/ocfs_2021/ADM/21-OCFS-ADM-17.pdf

- ii. a local multidisciplinary team, which includes a licensed clinician that has been regularly serving the child (an example of this team could be a support/treatment team at the QRTP where the LDSS has representation).
 - b. The LDSS's local review must evaluate each youth placed in a QRTP for progress related to their goals (as stated in the support/treatment plan), as well as barriers to achieving these goals. OCFS recommends the team begins reviewing the youth's record 30 days prior to the date necessary to submit the *Long-Stayer Review Form* (OCFS-5356) to OCFS (~90-days prior to the youth's threshold date).
 - i. The local team must consider the same factors as required by section 409-h of SSL and 18 NYCRR 439.2, to determine the appropriateness of the child's continued placement in the QRTP. At minimum, the team must review and consider
 - the initial QI assessment,
 - the current evaluation used to recommend the child remain in the QRTP,
 - the most recent court orders,
 - the QRTP's support/treatment plan,
 - the most recent FASP,
 - any other pertinent recent clinical/behavioral assessments or evaluations,
 - the youth's IEP (if applicable),
 - and any recent incident reports.
 - ii. The local team must make a recommendation as to the necessity of the youth's continued placement in a QRTP. If the local review does not recommend a youth's stay in a QRTP be extended, the LDSS should take the appropriate steps to place the youth in a lower level of care; failure to move the youth will cause Title IV-E funding to be unavailable for those youth who would have otherwise been eligible for Title IV-E reimbursement.
 - c. When the local team recommends an extension for a youth in a QRTP, the LDSSs must identify a "lead reviewer" who will complete the *Long-Stayer Review Form* (OCFS-5356), submit it to OCFS (LSR@ocfs.ny.gov) no later than 60 days prior to each youth's threshold date, and be the primary point of contact for all communications between the LDSS and OCFS for that particular youth.
 - i. The person completing the *Long-Stayer Review Form* must email the form and all supportive documentation that provides evidence justifying the request for an extended stay at the QRTP level of care.
 - Mandatory supportive documents include the following:
 - Initial QI assessment
 - Current evaluation used to recommend the child remain in the QRTP
 - Most recent court orders
 - Most recent support/treatment plan
 - All recent assessments/evaluations used by local team
 - All pertinent incident reports
 - NOTE: If there is pertinent information contained within CONNECTIONS that the local team wants the OCFS Long-Stayer Review team to consider, they must note specifically where in CONNECTIONS the documentation is located (location, date, author, etc.).
 - ii. The commissioner of the LDSS must review and certify the recommendation of the local team, including the justification if the recommendation is to continue placement.
 - iii. During the pendency of the long-stayer review process (once the LDSS submits the form), the LDSS may provide new or supplemental information by updating the

- bottom portion of the *Long-Stayer Review Form* (OCFS-5356) and resubmitting it along with the new supportive documents.
- iv. OCFS may reach out to the lead reviewer for more information during the review process. The LDSSs must be responsive to OCFS case-specific communications. The OCFS reviewers will provide timelines to the lead reviewer for the necessary follow-up information requested.
 - d. OCFS can deny any *Long-Stayer Review Form* submitted later than 60 days prior to that youth's threshold date.
 - e. OCFS will provide a final, formal decision regarding each request no later than five calendar days prior to each youth's threshold date.
 - i. The OCFS commissioner, or designee, will make the final decision regarding a long-stayer request for extension.
 - ii. If OCFS approves a youth to remain in a QRTP past their threshold date, Title IV-E reimbursement (if the child is otherwise eligible) will remain intact, and no further long-stayer review will be necessary unless the youth again approaches the threshold date after one of the following occurs:
 - exits foster care, re-enters foster care and is placed in a QRTP;
 - moves to a lower level of care and then is replaced into a QRTP at a later date;
 - has an absence more than 14-days; or
 - experiences a movement requiring a new QI, thus starting a new long-stayer timeframe.
 - iii. If OCFS does not approve a QRTP extension the LDSS must immediately make efforts to move the youth to an appropriate level of care.
 - If the child remains in the QRTP, Title IV-E reimbursement will cease as of the end date identified in the 60-day court review.

IV. Effective Date

Information contained in this release and the *Long-Stayer Review Form* (OCFS-5356) becomes effective immediately upon release.

/s/ Lisa Ghartey Ogundimu, Esq.

Issued By:

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Title: Deputy Commissioner

Division/Office: Division of Child Welfare and Community Services