

OFFICE OF CHILDREN AND FAMILY SERVICES

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| LOCAL COMMISSIONERS MEMORANDUM |
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OCFS-4616EL (Rev. 11/98)

Transmittal No: 00 OCFS LCM-25

Date: September 25, 2000

Division: Administration

TO: Social Services Commissioners

SUBJECT: Revised Claiming Instructions for Criminal Record
Background Check Results on Foster Care
and Pre-Adoptive Homes Effective for Payments
Made On or After August 1, 2000

ATTACHMENTS: None

I. PURPOSE

The purpose of this Local Commissioners' Memorandum (LCM) is to provide social services districts with updated instructions for claiming federal and State reimbursement made necessary by the implementation of the federal Adoption and Safe Families Act (ASFA) of 1997, Chapter 7 of the Laws of 1999 and Chapter 145 of the Laws of 2000 of the State of New York. The guidance and instructions in this LCM are for claiming reimbursement for foster care and pre-adoptive home payments for room and board provided on or after July 1, 2000. This means the first affected payments would generally be made no earlier than August 1, 2000. The Office of Children and Family Services (OCFS) will issue revised claiming instructions for payments made for foster care and pre-adoptive home room and board services provided between January 1, 1999 and June 30, 2000 separate from this LCM.

II. BACKGROUND

Effective January 1, 1999, the federal ASFA legislation requires that, as a condition of final approval or certification of foster care and pre-adoptive homes, authorized agencies must successfully complete a criminal record background check (CRBC) on all prospective foster care and adoptive parents. The U.S. Department of Health and Human Services, Administration

for Children and Families (ACF) issued revised child welfare regulations that became effective March 27, 2000 that implement certain requirements of the federal ASFA legislation, including Title IV-E claiming criteria regarding foster care and pre-adoptive homes.

The revised child welfare regulations require that, in order to be entitled to reimbursement under Title IV-E, authorized agencies must complete the CRBC process on foster and adoptive parent applicants as a condition of final certification or approval of the home. These regulations also mandate that Title IV-E reimbursement is not to be available to homes issued emergency, temporary or contingent approvals or certifications. This prohibition includes relative homes issued an expedited (24 hour emergency) approval that is valid for 60 days under State regulations. In the case of adoptive parents, the CRBC must be done prior to the final adoption of the child or Title IV-E reimbursement is not available for otherwise eligible adoption subsidy payments.

Effective July 1, 2000, the State Legislature, under Chapter 145 of the Laws of 2000 of the State of New York, opted-out of the federal ASFA requirements pertaining to completion of the federal CRBC process for prospective foster and pre-adoptive parents. The State will continue to mandate its own CRBC process for the certification and approval of such homes but is now able to establish its own safety standards independent of the federal ASFA legislation. The details of this newly enacted legislation will be conveyed to social services districts in a forthcoming administrative directive.

The revised child welfare regulations, however, retain the federal prohibition against claiming Title IV-E for payments to newly opened homes prior to a final approval or certification being issued. This, in effect, requires that the State's CRBC requirements be successfully completed prior to the claiming of Title IV-E reimbursement for payments made to such a home because it is a condition of final approval or certification under the State's ASFA law. The opt-out provisions of Chapter 145 only affect the CRBC process and has no impact on the federal prohibition against claiming Title IV-E on payments to homes prior to completion of all certification and approval requirements, including the CRBC.

Previously, OCFS had issued regulations and 99 OCFS INF-7 to assist social services districts and voluntary authorized agencies in implementing ASFA requirements and the related provisions of Chapter 7 of the Laws of 1999 of the State of New York. By following the provisions of the regulations, authorized agencies are able to make certification and approval determinations that provide for the safety of the children placed in the homes and to comply with State requirements for issuing certifications and approvals. The OCFS regulations also detail the conditions for, and standards by which, agencies can issue emergency certifications and approvals and extend existing certifications and approvals that will permit both the emergency and continued placement of children in the home. OCFS will shortly be issuing amended regulations to reflect the revised CRBC standards set forth in Chapter 145 of the Laws of 2000. The OCFS issued 99 OCFS LCM-8 instructing districts on claiming payments to foster and adoptive

homes that were undergoing approval or certification or the annual renewal of either when the CRBC had been initiated but not completed. Those instructions were updated in an August 5, 1999 letter to each social services district.

III. CLAIMING CRITERIA

A. Newly opened foster and pre-adoptive homes

Effective with payments for room and board provided on or after July 1, 2000, it is no longer necessary to file any "Claims for Special Projects" forms (LDSS- 3922) for newly opened homes that are providing foster care while undergoing completion of the CRBC. Payments to or on behalf of such homes are to be claimed on the Schedule H, as EAF foster care or K as federally non-participating (FNP), as appropriate. For any home newly approved or certified on or after January 1, 1999 and for which the CRBC has not been completed for the foster or adoptive parents as of July 1, 2000, social services districts are advised of the following:

Pursuant to the revised child welfare regulations that became effective March 27, 2000 and other federal instructions, Title IV-E reimbursement may not be claimed until such time as the CRBC is completed on all applicants to be foster or adoptive parent residing in the home, including any necessary safety assessments. Once the CRBC is completed and the home is provided final certification or approval, social services districts may claim Title IV-E funding on otherwise eligible payments as of the first day of the month in which the such final approval or certification is issued.

Homes issued an emergency certification or approval consistent with State regulations are eligible for reimbursement under the Temporary Assistance to Needy Families Emergency- Assistance to Families (TANF-EAF) category for payments otherwise eligible for reimbursement under that category. This means payments to such homes are eligible for TANF-EAF reimbursement if:

1. the foster parent has submitted all requisite documentation required for approval or certification, including all necessary fingerprint cards, and
2. the case has been determined eligible for EAF pursuant to the criteria in effect on September 30, 1995 for the Title IV-A Emergency Assistance to Families Program (EAF) and authorized as such prior to issuance of the payment.

As of payments made on or after August 1, 2000, social services districts should claim TANF-EAF funds for the payments made to homes meeting the above criteria even if the child is eligible for Title IV-E provided that he or she is also authorized for TANF-EAF. This requirement applies to all homes provided an emergency approval or certification status, including relative (kinship) homes issued an expedited (24 hour emergency) approval. Claiming under TANF-EAF for otherwise eligible Title IV-E cases must continue only for so long as the home remains in emergency approval or certification status. Once the home is final approved or certified, Title IV-E claiming must be

resumed for Title IV-E eligible placements.

For children not determined eligible for and authorized as TANF-EAF, districts must claim the payments as FNP.

B. Recertification and Re-approval of Existing Homes

State statute requires that every foster home certified or approved as of February 11, 1999 undergo a CRBC for the foster parents and all other individuals over the age 18 residing in the household as a condition of the renewal of the home's certification or approval that came due following the enactment of the legislation. Since the State operates a search and retain process, the CRBC only has to be initiated once for each member of the home over the age 18. Social services districts may claim federal reimbursement in the normal manner for otherwise eligible Title IV-E (i.e. on the Schedule K) and TANF-EAF (i.e. on the Schedule H) foster care payments made to or on behalf of homes whose existing certification or approval has been extended pursuant to the regulatory standards enacted by OCFS, pending the completion of the CRBC and the annual re-issuance of a certification or approval to the home. The OCFS regulations provide for the continuation of the existing certification or approval while the CRBC is being completed, provided that:

- all other eligibility factors for the case and the provider continue to be met, and
- the foster parent has submitted all requisite documentation required for recertification or re-approval prior to the expiration of the existing certification or approval, including completed fingerprint cards for the foster parents and all other individuals over the age of 18 who reside in the home who have not previously had a CRBC. Please refer to NYCRR 444.6 and 444.9.

Social services districts may not claim any reimbursement for payments to homes for which the foster parents failed to submit all requisite documentation as of the date the existing certification or approval was due to expire. Such homes are, in effect, unlicensed and not entitled to State or federal reimbursement until the home is new certification or approval. Any payments to such homes must be identified as Non-Reimbursable (N.R.).

C. Adoption Subsidies

State ASFA legislation requires that, as of February 11, 1999, a CRBC be done on any approved adoptive parent prior to the adoption being made final if such check(s) was not conducted as part of the adoptive home approval process. Adoptive homes initially approved on or after January 1, 1999 for which the adoption was made final without the completion of the CRBC on the adoptive parent(s) are not eligible for federal adoption subsidy funding under Title IV-E for the duration of the adoption and are to be claimed on the Schedule K as federally non participating (FNP).

IV. CLAIMING INSTRUCTIONS

Non-Title IV-E eligible foster care room and board and adoption subsidy

services provided on or after July 1, 2000 and affected by the CRBC or the child welfare regulations are covered by the instructions in Sections A and B below. Section C provides instructions for reporting Title IV-E reimbursable expenditures not affected by the CRBC requirements and the child welfare regulations. Section C provides instructions for reporting Title IV-E reimbursement claims for other than room and board payments that are not affected by the CRBC or the child welfare regulations and can be claimed as such for title IV-E eligible cases.

A. Prospective Claims

These instructions apply only to claiming for room and board provided on or after July 1, 2000.

For Title IV-E eligible only cases, (i.e., cases not authorized both for Title IV-E and TANF-EAF), payments made to homes certified or approved on an emergency basis pursuant to OCFS regulations and prior to the completion of the CRBC, write a new payment line. The direct component code is "08F", and the purchase of service line is "61F". The case claiming category remains the same but the payment claim is classified as "FNP" as a result. Payments are reported on the Schedule K as FNP. Districts are reminded, however, all foster care placements are to be reviewed for Title IV-E and TANF-EAF at the time of placement and authorized in both categories if appropriate (see 94 LCM-52).

For dually eligible cases, i.e., authorized as Title IV-E and TANF-EAF prior to the issuance of the room and board payment, the direct care component is coded as 08 and 08-E and the purchase of service lines (61 or 62) are coded with an "E" suffix. The claims for TANF-EAF foster care are reported on the Schedule H, line 8.

For adoption subsidy cases to be claimed as FNP on the Schedule K, districts must use a direct component of 01F and write a purchase of service line with a service type of either 52 or 55 with a suffix code of "F".

B. Claims Already Filed with the Office of Temporary and Disability Assistance (OTDA)

These instructions apply only to claiming for room and board provided on or after July 1, 2000 and paid for on or after August 1, 2000.

Retroactive accounts adjustments in the Benefits Issuance and Control System (BICS) should be made to change services payment claiming from Title IV-E to TANF-EAF or FNP as appropriate. This can be completed by including the service type suffix code of E (EAF) or F (FNP) when completing the BICS adjustment service screens. Supplemental claims should be prepared to adjust room and board amounts (less the accompanying administrative component) from FP to FNP on the Schedule K or from FP on the Schedule K to FP on the Schedule H for eligible TANF-EAF foster care costs. See the BICS Services Payment Processing Manual, chapter VII, for more information on performing the Retroactive Accounts Adjustments. See the Fiscal Reference Manual volume 2, Chapter 3 for general claiming instructions.

As a reminder, social services districts that submitted adjusted claims on a LDSS-3922 to OTDA for homes undergoing re-approvals and recertifications should reverse those expenditures if they have not already done so according

to instructions received in the in the OCFS letter of August 5, 1999.

C. Amounts Not Affected by the CRBC or the Child Welfare Regulations

For Title IV-E eligible cases, foster care and adoptions subsidy expenditures other than room and board and the subsidy itself (for example clothing and the administrative component of voluntary agency rates) should be claimed on the Schedule K for Title IV-E reimbursement to the extent districts are able to isolate those portions of the payments. The foster care agency administrative component and other Title IV-E eligible foster care agency expenditures should be identified and directly claimed along with other IV-E eligible foster care home expenditures on the Schedule K, section 2, line 3.

Local districts should manually calculate the administrative component of the voluntary agency rate by multiplying the total foster care agency maintenance costs by the estimated administrative component percentage.

Adoption subsidy expenditures (other than room and board) should be directly reported in the Schedule K, section 2, line 4.

Please assure that the amounts than for room and board claimed for FP reimbursement are not also claimed for FNP reimbursement.

Retroactive adjustments to claim FP for amounts not affected by the CRBC or child welfare regulations should be completed on monthly supplemental Schedule K's.

V SYSTEMS IMPLICATIONS

CONNECTIONS and CCRS currently do not have an extended license status. CONNECTIONS "Build 12" has, and "Build 13" when implemented will, provide authorized agencies significant assistance in managing licensing issues associated with the CRBC. Pending the Build 13 changes, voluntary authorized agencies must work closely with their social services districts to provide the data and information on the certification and approval status of their homes.

VI. CONTACTS

If you have any questions regarding the claiming criteria section of this letter please contact Mr. John Conboy at 1-518-402-0147 (User ID # 90b061). Questions pertaining to the claiming instructions may be directed to Mr. Roland Levie (Regions I-IV) at 1-800-343-8859, extension 4-7549 (User ID # FMS001) or in Region V Mr. Marvin Gold at 212-383-1733 (User ID # 0FM270).

Melvin I. Rosenblat
Deputy Commissioner for Administration