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Administrative Directive

Transmittal:	08-OCFS ADM-03
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Strategic Planning and Policy Development
Date:	May 6, 2008
Subject:	Notification to Foster Parent of Foster Care Level of Care and Room and Board Payment
Suggested Distribution:	Directors of Services Foster Care Supervisors Home Finding Supervisors
Contact Person(s):	Any questions concerning this release should be directed to the appropriate Regional Office Buffalo Regional Office – Mary Miller (716) 847-3145 Mary.Miller@ocfs.state.ny.us Rochester Regional Office – Linda Kurtz (585) 238-8201 Linda.Kurtz@ocfs.state.ny.us Syracuse Regional Office – Jack Klump (315) 423-1200 Jack.Klump@ocfs.state.ny.us Albany Regional Office – Kerri Barber (518) 486-7078 Kerri.Barber@ocfs.state.ny.us Spring Valley Regional Office – Pat Sheehy (845) 708-2498 Patricia.Sheehy@ocfs.state.ny.us NYC Regional Office – Patricia Beresford (212) 383-1788, ext. 4708 Patricia.Beresford@ocfs.state.ny.us Native American Services – Kim Thomas (716) 847-3123 Kim.Thomas@ocfs.state.ny.us
Attachment:	OCFS-LDSS-7018: Notification of Foster Care Level of Care and Room and Board Payment
Attachment Available Online:	Yes

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	SSL & Other Legal Ref.	Manual Ref.	Misc. Ref.
92-LCM-162		18 NYCRR 427.6; 441.22 (j)(1); 443.2 (e)(3); 443.3 (j) & (p)	SSL Section 22 FCA 1089 (b)	Standards of Payment for Foster Care Chapter 8 (B-8)	

I. Purpose

The Office of Children and Family Services (OCFS) is issuing this Administrative Directive (ADM) to provide Local Departments of Social Services (LDSS) and voluntary authorized agencies with a standardized procedure to notify foster parents of the rate level and amount of the foster care room and board payment they are to receive for each individual foster child placed with them. The rate level and amount of foster care room and board payment must be set and the notification form must be completed by the LDSS or voluntary authorized agency and sent to the foster parents within 30 days of placement of a child in their home. Additionally, this notification informs the foster parents of their right to a conference, the right to a fair hearing to appeal a foster care level of care and associated room and board payment decision, and how to avail themselves of these rights.

II. Background

Foster parents play a critical role in providing safe, temporary homes to children entrusted to their care. It is therefore incumbent upon the LDSS or voluntary authorized agency to inform the foster parent(s) of the level of care determination and associated foster care room and board payment rate that will be paid for the care they provide each child, and where the payment rate is above the normal rate, a description of the child's qualifying condition or circumstance that requires payment at a rate above the normal rate. The Program Manual: Standards of Payment for Foster Care of Children requires that all foster parents and applicants must be advised of the requirements for designating children as special and exceptional and for receiving the higher payments for providing such care. The information must be included in the foster parent manual required by 18 NYCRR 443.3 (j). Certified and approved foster parents must be reimbursed for each child for whom they provide foster care in accordance with 18 NYCRR 443.3 (p) and 427.6.

Additionally, the foster parents must be informed of their right to a conference and their right to a fair hearing to appeal a foster care level of care and associated room and board payment rate decision, pursuant to Section 22 of the Social Services Law. Notification of the level of care determination and associated foster care room and board payment rate affords foster parents the opportunity to appeal the level of care determination and associated foster care room and board payment rate decision.

III. Program Implications

In order to establish a level of care and pay a foster care room and board rate at the special or exceptional rate, two separate requirements must be met. The first of these two requirements relates to the eligibility of the child and the second relates to the eligibility of the foster parents.

- **The Child**

The LDSS, or voluntary agency, if so designated by the LDSS, must assess each foster child to determine if the child has any of the conditions or circumstances that qualify for special or exceptional rate in accordance with 18 NYCRR 427.6(c) and (d). If the

assessment determines the child meets one of the listed conditions or circumstances, a rate above the normal rate is warranted for the child. If it is determined that the child has a condition *equivalent to* one of the listed conditions for special or exceptional rate, then the higher rate is appropriate only if: the equivalent condition has been approved by the local commissioner of the LDSS *and* a list of equivalent conditions has been prior approved as eligible by OCFS; or approved by OCFS within 60 days of approval by the local commissioner.

- The Foster Parent

In order for foster care payments to be made at a rate above normal, staff must determine if the foster parents have received the necessary training or possess the necessary skills or experience in accordance with 18 NYCRR 427.6(e) (2) and (3), as follows: have demonstrated their ability to care for foster children with special or exceptional conditions through past training and experience in nursing, special education, child care or the completion of or participation in special training provided by an authorized agency or other relevant training and experience; and actively participate in agency training for foster parents of *not less than four hours per year* in the case of providers of *special* foster care services and *not less than five hours per year* in the case of providers of *exceptional* foster care services.

In addition, in accordance with 18 NYCRR 427.6(e) (4) and (5), staff has determined that the foster parents can actively participate in case conferences; and that the foster parents are able to provide the intensive supervision and interpersonal relationships that are consistent with the child's therapeutic goals, including working with professionals involved in the child's treatment plan, such as physicians, nurses, social workers, psychologists and psychiatrists.

Conferences/Fair Hearings

The reverse side of form LDSS-7018 explains the foster parents' right to a conference and a fair hearing to review the level of care determination and associated foster care room and board rate to be paid and how to appeal this determination. The right to a fair hearing remains, regardless of whether the foster parents have requested a conference. Fair hearings must be requested within 60 days from the "notice date" at the top of the first page of the notice.

A foster parent is entitled to the following records related to the conditions or circumstances of the foster child in his or her care:

- the child's comprehensive health history, current health status and documentation of the health care needs of the foster child, pursuant to 18 NYCRR 441.22 (j)(1);
- documentation of the child's handicaps or behavior problems, school and educational experiences and the relationship of the child with the child's birth parents, pursuant to 18 NYCRR 443.2 (e)(3); and

- the most recent permanency hearing report for the child, with any court modifications, pursuant to Section 1089 (b) of the Family Court Act.

Since a foster parent's access to such records is independent of a fair hearing request, the foster parent may already have received a copy of the records. In the event of a foster parent's request for records related to the fair hearing, the LDSS must either confirm that the foster parent has a copy of the records or provide a copy of the records to the foster parent for use at the fair hearing.

IV. Required Actions

The rate level and amount of foster care room and board payment must be set and the notification form "Notification of Level of Care and Foster Care Room and Board Payment" (OCFS-LDSS 7018; revised 04/08) must be completed by the LDSS or voluntary authorized agency and mailed to the foster parents within 30 days of placement of a child in the foster home, or within 30 days of a change in the rate level for a child already placed in the foster boarding home. The mailing date is to be entered in the "notice date" field (top, left of form). Notification is required in each instance when a child is placed in a new foster boarding home, including emergency placements; whenever a foster child is moved from an existing placement to a foster boarding home; and whenever the *rate level* changes for any reason, including for a foster child who remains in the same foster boarding home. When entering the "Amount of foster care room and board payment is \$ " on the form, only the discrete amount for room and board associated with the designated rate level from the Benefit Issuance and Control System (BICS) rate table is to be included, along with the effective date.

In addition to recording the rate level, a description of the qualifying condition or circumstance is to be recorded on the form.

Furthermore, the LDSS is required to send this notification to all foster parents who currently have foster children placed in their homes for whom such notification had not been previously provided. Such notification must be sent at the time of the next foster parent recertification or re-approval, or within 30 days of any *rate level* change, whichever is earlier. The LDSS may delegate the responsibility for notification to the voluntary authorized agency with which the child is placed, if such arrangement is reflected in the Model Contract in effect between the LDSS and the voluntary authorized agency. Such arrangement must be included in the program narrative that is attached as Schedule A.

Attached to this ADM is the form "Notification of Foster Care Level of Care and Room and Board Payment" that must be used for these purposes. A completed copy of the form must be placed in the foster parent(s) record as a means of verification that said notification has been sent and also documented in the foster parents' CONNECTIONS FAD record, in FAD contacts. If record access is requested in conjunction with a request for a fair hearing, the documents listed in the Program Implications section of this ADM are to be promptly provided.

V. Additional Information

As a reminder, in order to pay at a rate higher than normal, the activity S200 must be recorded in the Child Care Review Service (CCRS) activity subsystem with a code 2 (Special) or a code 3 (Exceptional) in the Modifier A field, or the payment amount will be defaulted to code 1 (Normal).

Form LDSS-7018 can be ordered by following the directions below:

INSTRUCTIONS: Fill out form (*ocfs-4627*) completely and **keep one copy** for your files. **Send 2 copies** to the resource distribution center to be processed. Please allow at least 2 weeks for the order to be filled. You will receive a copy of this form when your completed order is shipped. If forms or publications are back ordered, you will be notified on that form.

If you are filling this form out by hand, *please print clearly*.

Mail your order to:
Resource Distribution Center
11 Fourth Avenue
Rensselaer, NY 12144-2629

You can also order this form by leaving a message on the forms hotline, 518-473-0971.

The form will also be posted on the Intranet at <http://sdssnet5/ocfs/admin/forms>; if you print it from the Intranet, be sure to make all copies double sided, prior to providing the form to foster parents.

VI. Effective Date

This Administrative Directive is effective immediately.

/s/ Nancy W. Martinez

Issued By:

Name: Nancy W. Martinez

Title: Director

Division/Office: Strategic Planning and Policy Development