

+-----+  
 | ADMINISTRATIVE DIRECTIVE |  
 +-----+

TRANSMITTAL: 91 ADM-34

TO: Commissioners of  
 Social Services

DIVISION: Family and  
 Children  
 Services

DATE: August 23, 1991

SUBJECT: Child Care: Reimbursement of Payments for Children with  
 Special Needs

-----  
 SUGGESTED

DISTRIBUTION: Services Supervisors  
 Day Care Staff  
 Income Maintenance Supervisors  
 Staff Development Coordinators

CONTACT

PERSON: Dee Woolley, Bureau of Child Care, 1-800-342-3715,  
 ext. 4-9614 or (518) 474-9614

ATTACHMENTS:

Quarterly Report -- Child Day Care for Children with  
 Special Needs (available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-27		415.6	PL 100-485		
90 ADM-31			Title 9B		

I. Purpose:

The purpose of this ADM is to advise social services districts of policies and procedures related to the provision of child day care services for children with special needs. These policies and procedures apply to the provision of JOBS, Transitional, Employment-Related, Low Income and Title XX Child Care, including Preventive and Protective Child Care.

II. Background:

Child day care is an important service for parents who are or were in receipt of public assistance or who are among the population of the working poor. The lack of available and affordable child care can restrict the parents' opportunities to pursue training and educational activities which increase their employability. The availability of reliable and affordable child care also impacts on the ability of many individuals to obtain and maintain steady employment and self-support.

The importance of the availability of quality child day care increases when a child has special needs. Children with special needs often require services beyond those offered by most child care providers. Locating appropriate placements which provide the specialized services needed by a child with special needs is often difficult. When such placements are identified their cost frequently exceeds the cost of other forms of child day care in the area.

The federal Family Support Act of 1988 recognized the need for making higher child care payments for children who have special needs and allowed states to establish separate statewide limits for the care of such children. However, higher payments for child care for children with special needs are not allowed to cover special educational, therapeutic or other services not directly related to the provision of appropriate child care.

To assist social services districts in accessing appropriate placements, child day care payments for children with special needs will be reimbursed based upon the actual cost of care up to the statewide maximum rate of \$204 per week for weekly care, regardless of the child's age, the type of care or the local market rate. Part time care for such children will be based upon the actual cost of care up to a maximum rate of \$136 per week. The existence of special needs must be documented on a case by case basis by the social services districts. The social services districts must also verify that the child care provider is providing child care related services or is accruing additional costs as the result of caring for a child with special needs.

III. Program Implications:

A. Definitions of Special Needs

To be eligible for reimbursement for the actual cost of care up to the statewide maximum rate for weekly or part time child care, social services districts must document that a child has special needs. Children who have one or more of the following conditions as derived from education regulations 8 NYCRR 200.1(cc)(1-11) and Head Start Performance Standards are considered to be children with special needs.

1. Visual impairment -- A visual handicap which, even with correction, adversely affects a child's ability to function normally. The term includes impairments that result in a child having partial sight or blindness. Diagnosis of the child's condition must be made by an ophthalmologist, optometrist, physician or pediatrician.
2. Deafness -- A hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, and which adversely affects the child's ability to function normally. Diagnosis of the child's condition must be made by an audiologist, otolaryngologist, physician or pediatrician.
3. Hard of hearing -- A hearing impairment, whether permanent or fluctuating, which adversely affects the child's ability to function normally but which is not included under the definition of deaf. Diagnosis of the child's condition must be made by an audiologist, otolaryngologist, physician or pediatrician.
4. Orthopedic impairment -- A physical handicap resulting from a severe orthopedic impairment which adversely affects a child's ability to function normally. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some limb or digits, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputation, and fractures or burns which cause contractures). Diagnosis of the child's condition must be made by a physician, pediatrician, orthopedist, or neurologist.
5. Emotional disturbance -- An inability to learn which cannot be explained by intellectual, sensory or health factors and which causes a child to exhibit, to a marked degree, one or more of the following characteristics over a long period of time:
  - a. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
  - b. inappropriate types of behavior or feelings under normal circumstances;
  - c. a general pervasive mood of unhappiness or depression; or

- d. a tendency to develop physical symptoms or fears associated with personal or school problems.

Diagnosis of a child as emotionally disturbed must be made by a psychologist, psychiatrist or other clinically trained and State-qualified mental health professional.

- 6. Mental retardation -- General intellectual functioning that is determined to be 1.5 standard deviations or more below the mean of the general population on the basis of a comprehensive evaluation which includes an individual psychological evaluation and which results in a consistent demonstrable deficit in a child's ability to adapt to his or her learning environment. Diagnosis of the child's condition must be made by a psychologist, physician or pediatrician.
- 7. Learning disability -- A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which manifests itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, neurological impairment, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include learning problems which are primarily the result of visual, hearing or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural or economic disadvantage. A child who exhibits a discrepancy of 50 percent or more between expected achievement and actual achievement determined on an individual basis shall be deemed to have a learning disability. Diagnosis of the child's condition must be made by a psychologist, special education professional, psychiatric social worker or other mental health professional.
- 8. Speech impairment -- A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment which adversely affects the child's ability to function normally. A child should not be classified as having a communication disorder when speech and language differences may be attributed to cultural, ethnic, bilingual, or dialectical differences or being non-English speaking. Diagnosis of the child's condition must be made by a speech or language pathologist, audiologist, otolaryngologist, physician, or pediatrician.
- 9. Health impairment -- A physical handicap which limits a child's strength, vitality or alertness caused by chronic or acute health problems which adversely affect a child's ability to function normally. Examples of such health problems include, but are not limited to, a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia,

diabetes, tourette syndrome or HIV or AIDS. Diagnosis of the child's condition must be made by a pediatrician, physician or other medical specialist.

10. Autism -- A behaviorally defined syndrome which occurs in children of all levels of intelligence. The essential features of autism are typically manifested prior to 30 months of age and include severe disturbances of developmental rates and/or sequences of responses to sensory stimuli, of speech, of language, of cognitive capacities, and of the ability to relate to people, events and objects. Diagnosis of the child's condition must be made by a psychologist, psychiatrist or other clinically trained and State-qualified mental health professional.
11. Multiple handicaps -- Two or more handicapping conditions identified in Section III. A (1-10) of this ADM that result in multi-sensory or motor deficiencies and developmental lags in the cognitive, affective, or psychomotor areas, the combination of which cause problems which interfere with the child's ability to function normally. Diagnosis of the child's condition must be made by a pediatrician, physician or other medical specialist.

In the provision of child care services for children of the homeless, children of drug-involved individuals and children requiring protective or preventive services, the social services district should carefully evaluate whether such children have special needs as defined by Section III. A (1-11) of this ADM.

Social services districts may submit written requests for Department approval of any category of special need not otherwise defined in this ADM.

B. Child Care Related Services

Social services districts must verify that child care providers who request child care payments in excess of the applicable local market rates are providing child care services related to the care of children with special needs or are incurring additional costs as the result of caring for such children. Reimbursement for child care payments in excess of the local market rates will not be allowed to cover special education or other therapeutic services not directly related to the provision of appropriate child care. Possible child care related services or additional costs include:

1. purchase or rental of equipment needed to provide appropriate care to a child with special needs;
2. maintenance of apparatus which assists in breathing, feeding or toileting;

3. supervision of physical activities such as infant stimulation and follow-up activities recommended by a therapist, physician or other specialist;
4. minor modifications to the environment to make it appropriate for a specific child, such as installation of a ramp or handrails in the bathroom;
5. materials and supplies for use with a child on a routine basis as recommended by a therapist, physician or other specialist;
6. increased utility costs due to use of therapeutic machines, such as respirators;
7. transportation of children to and from prescribed therapy sessions;
8. additional staffing when needed to allow a caregiver to work on an individualized basis with a child for scheduled time periods; or
9. increased time and attention needed to provide appropriate care is such that a child care provider is unable to accept additional children.

One-time child care related costs may be paid as administrative expenses under the Low Income Day Care or Title XX Child Care programs rather than as part of an increased rate if the social services district wishes. However, to cover one-time costs using JOBS, Employment-Related or Transitional Child Care funds, the child care related costs must be included as part of the child care rate. Therefore, the social services district may wish to prorate the one-time expense into the child care rate over a specified period of time rather than paying a higher rate indefinitely.

The availability of reimbursement for child care payments for children with special needs for the actual cost of care up to \$204 per week is not intended to supplant either the existing pre-school programs for children with handicapping conditions or programs described by Article 89 (Section 4401-4410) of the Education Law. Social services districts should seek funding and services through these sources and through the medical assistance program for items such as special equipment, transportation and materials and supplies recommended by a physician, before either adjusting a child care provider's rate or paying for an item as an administrative expense.

The social services district may submit a written request for Department approval of other child care related services and related additional costs that are not covered by this ADM.

C. Eligibility

Reimbursement for the actual cost of care up to the statewide limit of \$204 per week or \$884 per month is available for care of children with special needs when such care is provided as JOBS, Employment-Related, Transitional, Low Income, or Title XX Child Care, including Preventive and Protective Child Care. All other eligibility criteria which apply to the specific program must be met.

When providing child care services for children with special needs under the JOBS, Employment-Related and Transitional Child Care programs such reimbursement is available for children up to age 18, or 19 if a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and who are reasonably expected to complete the program before reaching age 19 who are in receipt or were formerly in receipt of ADC benefits. Such care is available for children less than 21 years of age who are in receipt or were formerly in receipt of HR or VA benefits. Children, otherwise identified above, who reside with ADC, HR, or VA families, and who are in receipt of Supplemental Security Income (SSI) benefits or IV-E foster care benefits are also eligible for child care at the special needs rate when any of the conditions identified in Section III. A. of this ADM exist.

Social services districts should note that when providing child care services for children with special needs reimbursement is available only when care is provided by licensed, certified or registered child day care providers, regardless of program funding.

Reimbursement will be available retroactive to April 1, 1990 for Transitional Child Care and October 1, 1990 for all other child care. However, retroactive payment will only apply to cases in which either the social services district or the parent has absorbed costs in excess of the local market rates in order to provide appropriate care for a child with special needs.

IV. Required Action:

A. Documentation of Special Needs

It is the social services district's responsibility to document the diagnosis of the child's condition and special service needs which have been identified by the appropriate physicians or other specialists as outlined in Section III. A. of this ADM. A written statement or report which has been obtained from the appropriate physician or specialist will constitute appropriate documentation.

An Individualized Education Plan (IEP) from the child's school may provide acceptable documentation of special needs when it is based on the opinions of appropriate professionals as identified in Section I. A. of this ADM. In order to be considered appropriate

documentation an IEP must identify a child's special care needs in addition to his/her special education needs.

B. Referral

Upon receipt of documentation that a child has special needs, the social services district must determine if the child is receiving program services as authorized either by Article 89 of the Education Law or the Medical Rehabilitation Program for Handicapped Children. If the child has not been evaluated for participation in the above programs, the social services district must assist the parent in applying for benefits under those programs.

C. Verification of Additional Costs and/or Services

Before authorizing payment in excess of the local market rate for child day care services for children with special needs, the social services district must verify that the caregiver is providing related services which are designed to meet the child's special needs and/or that the provision of care to the child with special needs results in additional costs to the child care provider. Verification of the provision of additional child care related services and/or the accrual of additional child care related costs may be in the form of an attestation from the child care provider and must be maintained in the case record. Social services districts may, but are not required to, visit a child care provider who is receiving a higher reimbursement for a child with special needs in order to verify that the child care provider is, in fact, providing additional child care related services or accruing additional costs.

D. Redetermining Eligibility

It is the social services district's responsibility to reevaluate a child's condition and special service needs at the time that a family's eligibility for publicly funded child care services is redetermined in accordance with the specific program requirements. A statement or report from the appropriate physician or other specialist must be obtained at the time of redetermination.

E. Reporting

The social services district is responsible for submitting a quarterly report to the State Department of Social Services which provides information on the number of children with special needs served at rates exceeding the local market rates, the ages of such children, the types of providers utilized for such children, the diagnosis categories and special services provided and the payment rates for such care. (See attachment) This information is not available on the system for all funding streams. Quarterly reports from social services districts will allow the Department to monitor the usage and costs associated with reimbursement of child care payments for children with special needs based upon the actual cost of care up to the statewide limit. The need to continue quarterly reporting will be assessed at the end of the first year.



V. Systems Implications:

A. Upstate

1. JOBS- and Employment-Related Child Care  
Specific instructions for ABEL calculations for payment of child day care for a child with special needs are discussed in ABEL Transmittal 90-6.
2. Transitional, Low Income and Title XX Child Care  
Payment for child day care for a child with special needs may be authorized through use of the usual WMS procedures.

B. New York City

1. Transitional, JOBS- and Employment-Related Child Care  
Specific instructions for authorization of child day care for children with special needs is discussed in the Public Assistance Budgeting Manual.
2. Low Income and Title XX Child Care  
Payment for child day care for a child with special needs may be authorized using the appropriate local procedures for Low Income and Title XX Child Care.

VI. Additional Information

A. Claiming Instructions

Day Care for children with special needs should be claimed in the same manner all other day care within the Category of Assistance in the RF-2 and RF-2A claim packages.

Employment-related special needs day care should be authorized and paid through the Non-Services authorization. These expenditures should be claimed on the Schedule A for ADC and PG-ADC related expenditures, and the Schedule F for EAF Day Care.

All services authorized day care for special needs children should be claimed on line 2 of the Schedule G. The appropriate column to claim should be based on the category of assistance. Title XX expenditures are claimed in columns 2 through 8, depending on the Title XX breakout. EAF expenditures are claimed in column 10, while Low Income would be claimed in Column 11. Federally Participating Transitional Day Care expenditures are claimed in column 12, with PG-ADC Transitional Day Care expenditures being claimed under column 13, on line 2.

When Low Income Day Care or Title XX Child Care program costs are paid as administrative expenses, as explained on Page No. 6 of this ADM in relation to one-time child care related costs, these should be claimed on the Schedule D-2.

In addition, all special needs should be reported statistically on the Schedule G-2 along with all other Services and Non-Services Day Care.

VII. Effective Date:

The effective date of this ADM is September 1, 1991, retroactive to April 1, 1990 for Transitional Child Care and retroactive to October 1, 1990 for Low Income, Title XX, JOBS and Employment-Related Child Care.

---

Joseph Semidei  
Deputy Commissioner  
Family and Children Services

