

CANCELLED BY 96 ADM-3

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| ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 93 ADM-22

TO: Commissioners of
Social Services

DIVISION: Services and
Community
Development

DATE: August 19, 1993

SUBJECT: Child Care: Revised Market Rates

SUGGESTED

DISTRIBUTION: | Directors of Services
| Directors of Income Maintenance
| Employment Coordinators
| Accounting Supervisors
| Child Care Supervisors and Staff
| Staff Development Coordinators

CONTACT

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ATTACHMENTS: | 18 NYCRR Section 415.9 (available on-line)

FILING REFERENCES

Previous | Releases | Dept. Regs. | Soc. Serv. | Manual Ref. | Misc. Ref.
ADMs/INFs | Cancelled | | Law & Other | |
| | | Legal Ref. | |
90 ADM-27 | | Section | | | |
90 ADM-31 | | 385.3 | | | |
91 ADM-34 | | | | | |
93 INF-5 | | Part 415 | | | |

I. PURPOSE

The purpose of this directive is to advise social services districts of revised policies and procedures related to market rates for child care services and the new maximum amounts of reimbursement available for child care payments regardless of funding source.

II. BACKGROUND

A. Program Summary

The federal Family Support Act of 1988 (FSA) required that the Department establish child care market rates to be used as the maximum reimbursement rates for Employment-related and JOBS-related child care services and for Transitional Child Care (TCC) services. The federal rules for the At Risk Low Income Child Care (ARLICC) program also provide for reimbursement of child care payments based upon the actual cost of care up to the market rates. In addition, Chapter 53 of the Laws of 1993 requires that social services districts make payments for the actual cost of care up to the market rate for Low Income Day Care (LIDC) services.

The federal rules for the Child Care and Development Block Grant (CCDBG) program provide that the State must establish payment rates which are sufficient to allow families in receipt of child care subsidies to access services comparable to those accessible to families not eligible to receive subsidies. Consistent with the Department's attempt to minimize inconsistencies between child care programs, Section 415.6 of Department regulations provides that reimbursement of child care payments is available for the actual cost of care up to the applicable market rate regardless of funding source.

The Department first established market rates for child care services in 1990. Reimbursement of payments for the actual cost of care up to the applicable market rate became available on April 1, 1990 for Transitional Child Care (TCC) services and on October 1, 1990 for all other child care services. The federal regulations require that market rates for child care services be updated at least biennially. Therefore, as social services districts were previously notified by GIS, the updated market rates were effective December 31, 1992.

B. Rate Determination

The attached market rates were calculated in accordance with the federal requirements for the establishment of such rates. The methodology used to establish the market rates is subject to approval by the federal Department of Health and Human Services as

part of the State's Supportive Services Plan for the JOBS program. The federal requirements prescribe that rates must be based on the rates actually charged by providers and must be established at the 75 percentile of such charges. In addition, market rates must be differentiated by type of provider, age of child, duration of care and geographic location.

Rate data was collected from approximately 9000 providers of child care services, including day care centers, family and group family day care homes and school-age child care programs, statewide. To ensure that the rates cited by providers on the survey were valid, the Department contacted a sample of 250 providers. Information about charges for care for children of various ages was solicited anonymously and compared with the data provided on the written survey. No discrepancies were identified during this process.

Unlike regulated care, no list of informal providers is maintained by New York State. This makes the use of surveys for this category of provider extremely difficult and recent research shows widely disparate rates. The lack of reliable or representative data necessitates basing market rates for unregulated in-home child care on the rates for regulated family day care. Consequently, the market rate for in-home child care was established as 75 percent of the rate for regulated family day care.

III. PROGRAM IMPLICATIONS

The following definitions must be used for the determination and application of the correct market rate whenever child care services are provided.

A. Actual Cost of Care

Effective December 31, 1992, payments for JOBS-related child care services, Employment-related child care services, TCC services, ARLICC services, CCDBG services and LIDC services must be the actual cost of care not to exceed the applicable market rate as revised (see attachment). The actual cost of care is the usual rate charged by the provider for non-subsidized care.

Social services districts may negotiate rates with individual providers. A fairly negotiated rate can be advantageous to both the social services district and the provider. Social services districts may offer incentives such as direct payment, insurance, equipment and supplies to the providers with whom it contracts. In return, social services districts frequently receive a discount on child care purchases. Even though the negotiated rate may be less than the usual charge to non-subsidized families, the negotiated rate is considered the actual cost of care for services provided under a contractual agreement.

Currently, with the exception of LIDC and Title XX services, the social services district must allow parents to select and must

have a method to pay any and all providers with whom it does not contract. A contract may not be made a condition of receiving payment from JOBS-related, Employment-related, TCC, ARLICC or CCDBG subsidies.

B. Selection of the Applicable Market Rate

The social services district must consider the following four factors when selecting the applicable market rate for a specific child's care.

1. Type of Provider

- a. Licensed day care center and caregivers of legally-exempt group child care - The maximum payment rate for care provided by licensed day care center providers and caregivers of legally-exempt group child care as defined in section 415.9(e) of the Department's regulations is the applicable market rate for day care centers.
- b. Registered family day care providers - The maximum payment rate for care provided by registered family day care providers is the applicable market rate for family day care.
- c. Licensed group family day care providers - The maximum payment rate for care provided by licensed group family day care providers is the applicable market rate for group family day care.
- d. Registered school-age child care programs - The maximum payment rate for care provided by registered school-age child care programs is the applicable market rate for school-age child care.
- e. Caregivers of informal child care - The maximum payment rate for care provided by caregivers of informal child care as defined in Section 415.1(c) of the Department's regulations, other than those paid using CCDBG funds, is the applicable market rate for in-home care. For child care services provided under the federal CCDBG program, the maximum payment rate for care provided by a caregiver of informal child care, other than in-home providers, is the applicable market rate for family day care.
- f. Caregivers of in-home child care providers - The maximum payment rate for care provided by caregivers of in-home child care as defined in Section 415.1(c) of the Department's regulations is the applicable market rate for in-home care.

2. Age of Child

Market rates are differentiated by the age of the child. The

age categories are:

- a. under 1-1/2 years;
- b. 1-1/2 years through 2 years;
- c. 3 years through 5 years; and
- d. 6 years through 12 years.

When a change in a child's age results in movement from one age category to another, the new market rate limit should be applied at the beginning of the first full month following such a change.

3. Duration of Care

Market rates also are differentiated by the amount of care needed on a weekly basis.

a. Weekly

The weekly rates are the maximum reimbursable rates for care that is provided for 30 or more hours per week.

b. Part-time

For infants and preschool age children, the part-time rates apply when the child care services are provided for less than 30 hours per week. For school age children, the part-time rates apply when child care services are provided for at least 15 hours but less than 30 hours per week.

c. Hourly

The hourly rates apply when child care services are provided to school age children for less than 15 hours per week.

4. Location of Care

Whenever child care services are provided by a caregiver located outside the social services district which authorizes the subsidy, the applicable market rate is the market rate of the county in which the care is located.

C. Consideration for Children With Special Needs

Social services districts will receive reimbursement for payments in excess of the applicable market rate when the increased payments are the result of increased costs associated with meeting the child care needs of a child with special needs. Policies and procedures relative to the provision of child care services to children with special needs are detailed in 91 ADM-34.

Section 415.9 of the Department's regulations provides that the rate of payment for child care services provided to a child with special needs is the actual cost of care up to the statewide limit of \$217 per week when the services are provided for 30 or more hours per week. When the child care services are provided for less than 30 hours per week, the payment rate is the actual cost of care not to exceed \$145 per week.

IV. REQUIRED ACTIONS

A. Review of Current Cases

1. Employment-related Child Care

When Employment-related Child Care is authorized for employed PA recipients, the social services district must disregard earnings up to the actual cost of child care or the applicable disregard, whichever is less. Employment-related Child Care is provided as a supplemental payment when the actual cost of the child care exceeds the child care disregard and the recipient is using an eligible provider as defined in Section 415.1(h) of the Department's regulations. The amount of the supplemental payment when added to the child care disregard should not exceed the lower of the actual cost of the child care or the applicable child care market rate, as updated. When a child has special care needs as defined in 91 ADM-34, the total of the supplemental payment and the child care disregard should not exceed the lower of the actual cost of care or the statewide limit (see III.C.).

2. JOBS-related, TCC, ARLICC, LIDC, and CCDBG Services

Social services districts must review all currently authorized cases to ensure that payment is authorized for the actual cost of care up to the applicable market rate, as updated. When a child has special care needs as defined in 91 ADM-34, social services districts must ensure that payment is authorized for the actual cost of care up to the statewide limit (see III.C.).

Social services districts should pay particular attention to those authorizations which are at the pre-December 31, 1992 market rate limit. When the market rate increased as a result of the update, recipients who are paying child care costs in excess of the market rate are eligible for an increased payment from the district (their actual child care charges up to the market rate).

In the few instances where the market rate decreased as a result of the update, the social services district may need to reduce benefits. Whenever the amount of the authorized payment changes, social services districts must provide recipients with appropriate notice as required by Part 385 of

Department regulations. See 93 INF-5, "Revised Client Notification Forms," for model notices.

B. Authorizing New Cases

1. Employment-related Child Care

Social services districts must calculate supplemental payments for the difference between the child care income disregard and the actual cost of care up to the applicable market rate (or statewide limit when a child has special care needs) for all newly employed recipients of public assistance who are using an eligible provider.

2. JOBS-related, TCC, ARLICC and CCDBG services

When authorizing payments on behalf of new recipients of JOBS-related child care services, TCC services, ARLICC services and CCDBG services, social services districts must authorize payments for the actual cost of care up to the applicable market rate (or statewide limit when a child has special care needs), as updated.

3. Title XX and LIDC services

In the absence of a contractual agreement for an amount other than the actual cost of care, the social services district must authorize payments on behalf of new recipients of Title XX child care services and LIDC services for the actual cost of care up to the applicable market rate (or statewide limit when a child has special care needs).

C. Claiming/Reimbursement Procedures

Reimbursement of child care payments is available for the actual cost of care up to the applicable market rate (or statewide limit when care is provided to a child with special care needs). While social services districts may negotiate a contract for rates on any basis acceptable to both the social services district and the provider (e.g., weekly, daily, hourly), reimbursement in excess of the applicable market rate is not available. Social services districts must develop procedures to ensure that amounts claimed for reimbursement do not exceed the applicable rate.

V. EFFECTIVE DATE

The effective date of this ADM is August 20, 1993 retroactive to December 31, 1992.

Frank Puig
Deputy Commissioner
Division of Services and Community
Development