

Notice of Proposed Rule Making

Temporary and Disability Assistance, Office of
(SUBMITTING AGENCY)

- ☒ Approval has been granted by Executive Chamber to propose this rule making.
☐ This rule making does not require Executive Chamber approval.

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms will be cause for rejection of this notice.

1. A. *Proposed action:*

Amendment of	§ 352.3(e)(2) and § 352.3(f)	Title <u>18</u>	NYCRR
Repeal of	§ 352.3(g)-(h) and § 352.3(m)	Title <u>18</u>	NYCRR
Amendment of	§ 352.35(b)(3)	Title <u>18</u>	NYCRR
Amendment of	§ 491.2(f)	Title <u>18</u>	NYCRR
Amendment of	§ 900.2(e)	Title <u>18</u>	NYCRR
Addition of	Part 902	Title <u>18</u>	NYCRR
- B. ☐ This is a consensus rule making. A statement is attached setting forth the agency's determination that no person is likely to object to the rule as written [SAPA §202(1)(b)(i)].
- C. ☐ This rule was previously proposed as a consensus rule making under I.D. No. _____. Attached is a brief description of the objection that caused/is causing the prior notice to be withdrawn [SAPA §202(1)(e)].
- D. ☐ This rule is proposed pursuant to [SAPA §207(3)], 5-Year Review of Existing Rules (see also item 16).

2. Statutory authority under which the rule is proposed:

Social Services Law §§ 17(a)-(b) and (k), 20(2)(b), 20(3)(d)-(f), 34(3)(c)-(f), and 34(6)

3. Subject of the rule:

Hotel/motel facilities used as temporary housing placements for persons and families experiencing homelessness

4. Purpose of the rule:

See attached addendum

5. Public hearings (check box and complete as applicable):

- ☒ A public hearing is not scheduled. (SKIP TO ITEM 8)
☐ A public hearing is required by law and is scheduled below. (**Note:** first hearing date must be at least 60 days **after** publication of this notice unless a different time is specified in statute.)
☐ A public hearing is not required by law, but is scheduled below.

Time:	Date:	Location:

6. *Interpreter services* (check only if a public hearing is scheduled):

- ☐ Interpreter services will be made available to hearing impaired persons, at no charge, upon written request to the agency contact designated in this notice.

7. *Accessibility* (check appropriate box only if a public hearing is scheduled):

- ☐ All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.
- ☐ Attached is a list of public hearing locations that are **not** reasonably accessible to persons with a mobility impairment. An explanation is submitted regarding diligent efforts made to provide accessible hearing sites.

8. *Terms of rule* (SELECT ONE SECTION):

- A. ☐ The full text of the rule is attached because it does not exceed 2,000 words.
- B. ☒ A summary of the rule is attached because the full text of the rule exceeds 2,000 words.

☒ Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

<http://otda.ny.gov/legal/regulatory-activities.asp>

- C. ☐ Pursuant to SAPA §202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule as defined in SAPA §102(2)(a)(ii) [Rate Making]. Web posting of full text of such rule is not required [SAPA §202(1)(a)].

9. *The text of the rule and any required statements and analyses may be obtained from:*

Agency contact Thomas Makely

Agency Name New York State Office of Temporary and Disability Assistance

Office address 40 North Pearl Street, 16-C
Albany, NY 12243-0001

Telephone (518) 402-3966 E-mail: thomas.makely@otda.ny.gov

10. *Submit data, views or arguments to* (complete only if different than previously named agency contact):

Agency contact _____

Agency name _____

Office address _____

Telephone _____ E-mail: _____

11. *Public comment will be received until:*

- ☒ 60 days after publication of this notice (MINIMUM public comment period).
- ☐ 5 days after the last scheduled public hearing required by statute (MINIMUM, with required hearing).
- ☐ Other: (specify) _____.

12. A prior emergency rule making for this action was previously published in the _____ issue of the *Register*, I.D. No. _____.

13. *Expiration date* (check only if applicable):

☐ This proposal will not expire in 365 days because it is for a "rate making" as defined in SAPA §102(2)(a)(ii).

14. *Additional matter required by statute*:

☐ Yes (include below material required by statute).

☒ No additional material required by statute.

15. *Regulatory Agenda* (See SAPA §202-d[1]):

☒ This rule was a Regulatory Agenda item for this agency in the following issue of the *State Register*:
01/22/2025.

☐ This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the *Register*.

☐ Not applicable.

16. **Review of Existing Rules** (ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

This rule is proposed pursuant to SAPA §207 (item 1D applies) (check applicable boxes):

☐ Attached is a statement setting forth a reasoned justification for modification of the rule. Where appropriate, include a discussion of the degree to which changes in technology, economic conditions or other factors in the area affected by the rule necessitate changes in the rule.

☐ Attached is an assessment of public comments received by the agency in response to its publication of a list of rules to be reviewed.

☐ An assessment of public comments is not attached because no comments were received.

☒ Not applicable.

17. **Regulatory Impact Statement (RIS)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS, EXCLUDING SUMMARIES OF STUDIES, REPORTS OR ANALYSES [Needs and Benefits]):

A. The attached RIS contains:

☒ The full text of the RIS.

☐ A summary of the RIS.

☐ Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

☐ A consolidated RIS, because this rule is one of a series of closely related and simultaneously proposed rules or is virtually identical to rules proposed during the same year.

B. A RIS is **not attached**, because this rule is:

☐ subject to a consolidated RIS printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

☐ exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

☐ exempt, as defined in SAPA §102(11) [Consensus Rule Making].

C. ☐ A **statement is attached** claiming exemption pursuant to SAPA § 202-a (technical amendment).

18. Regulatory Flexibility Analysis (RFA) for small businesses and local governments

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

A. The attached RFA contains:

☒ The full text of the RFA.☐ A summary of the RFA.

☐ Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

☐ A consolidated RFA, because this rule is one of a series of closely related rules.

B. ☐ A **statement is attached** explaining why a RFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments and the reason(s) upon which the finding was made, including any measures used to determine that the rule will not impose such adverse economic impacts or compliance requirements.

C. A RFA is **not** attached, because this rule:

☐ is subject to a consolidated RFA printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

☐ is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

☐ is exempt, as defined in SAPA §102(11) [Consensus Rule Making].

19. Rural Area Flexibility Analysis (RAFA)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

A. The attached RAFA contains:

☒ The full text of the RAFA.☐ A summary of the RAFA.

☐ Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

☐ A consolidated RAFA, because this rule is one of a series of closely related rules.

B. ☐ A **statement is attached** explaining why a RAFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas and the reason(s) upon which the finding was made, including what measures were used to determine that the rule will not impose such adverse impact or compliance requirements.

C. A RAFA is **not attached**, because this rule:

☐ is subject to a consolidated RAFA printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

☐ is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

☐ is exempt, as defined in SAPA §102(11) [Consensus Rule Making].

20. Job Impact Statement (JIS)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

A. The attached JIS contains:

☐ The full text of the JIS.☐ A summary of the JIS.

☐ Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

☐ A consolidated JIS, because this rule is one of a series of closely related rules.

B. ☒ A **statement is attached** explaining why a JIS is not required. This statement is in scanner format and explains the agency's finding that the rule will not have a substantial adverse impact on jobs and employment opportunities (as apparent from its nature and purpose) and explains the agency's finding that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.

☐ A JIS/Request for Assistance [SAPA §201-a(2)(c)] is attached.C. A JIS is **not attached**, because this rule:

☐ is subject to a consolidated JIS printed in the *Register* under I.D. No.: _____ - _____
issue date: _____.

☐ is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].☐ is proposed by the State Comptroller or Attorney General.**AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice.)**

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name Thomas Makely Signature /s/ Thomas Makely

Address N.Y.S. O.T.D.A., 40 North Pearl Street, 16-C, Albany, NY 12243-0001

Telephone (518) 402-3966 E-Mail thomas.makely@otda.ny.gov

Date 01/13/2026

Please read before submitting this notice:

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's Register procedures manual, *Rule Making in New York*.
2. Rule making notices, with any necessary attachments (in MS Word), should be e-filed via the Department of State website.

4. Purpose of the rule:

To ensure public assistance (PA) applicants or recipients that receive Temporary Housing Assistance (THA) for hotel/motel facility placements receive supportive services like those currently available to PA applicants or recipients that receive THA for shelter placements.

Summary of the Proposed Rule

The Office of Temporary and Disability Assistance (OTDA) proposes the following amendments to Title 18 of the New York Codes, Rules and Regulations (NYCRR) updating and supplementing current State regulations pertaining to hotel/motel facilities that social services districts (districts) use to place public assistance (PA) applicants or recipients that receive Temporary Housing Assistance (THA) when no other suitable public or private housing is available.

In sum, the proposed regulatory amendments would:

Adopt a new Part 902: (1) setting forth the responsibilities of districts with respect to hotel/motel facilities that are used to provide temporary emergency housing to persons and families experiencing homelessness; (2) updating and clarifying the standards applicable to these hotel/motel facilities; (3) requiring that PA applicants/recipients that receive THA who are placed in hotel/motel facilities are provided with supportive services that are currently available to public assistance applicants or recipients that receive THA placed in shelters; and (4) clarifying the Office of Temporary and Disability Assistance's oversight and enforcement authorities with respect to hotel/motel facilities used by districts to place THA recipients.

In recognition of, and to accommodate the new Part 902, the rule would also make the following amendments: (1) amend 18 NYCRR § 352.3(e)(2) to remove the outdated maximum allowable cost for a refrigerator rental in a hotel/motel facility; (2) amend 18 NYCRR § 352.3(f) to remove the limitation on districts that they may not place a PA applicant or recipient that receives THA in a hotel/motel facility for longer than six months unless such district submits an annual determination to OTDA that housing other than hotel/motel facilities and certified shelters are not available, and outdated references to maximum daily shelter costs, currently set at \$16 per day for the first person and \$11 per day for each additional occupant in the room; (3) repeal 18 NYCRR §§ 352.3(g) and (h) which contains the extant standards and inspection requirements for hotel/motel

facilities, as these would be replaced by new Part 902; (4) repeal 18 NYCRR §§ 352.3(m) which contains outdated inspection requirements applicable to uncertified shelters, as these would no longer be necessary due to new Part 902; (5) amend 18 NYCRR 352.35(b)(3) to make conforming changes to the definition of “temporary housing,” to reflect changes made by Part 902; and (6) amend 18 NYCRR §§ 491.2(f) and 900.2(e) to clarify that the regulations relating to shelters for homeless persons and families experiencing homelessness set forth in Parts 491 and 900, respectively, do not apply to commercial hotel/motel facilities used as temporary placements, given that such placements would now be subject to new Part 902.

More specifically, the proposed regulatory amendments would:

Amend § 352.3(e)(2) to remove the maximum allowable cost for a refrigerator rental in a hotel/motel facility, which currently may not exceed \$10 per week per room.

Amend § 352.3(f) to remove the limitation on districts that they may not place a PA applicant or recipient that receives THA in a hotel/motel facility for longer than six months unless such district submits an annual determination to OTDA that housing other than hotel/motel facilities and certified shelters are not available, and to also remove the maximum amount that districts can be reimbursed for hotel/motel facility costs.

Repeal § 352.3(g)–(h), which would be replaced by new Part 902.

Repeal § 352.3 (m), which would no longer be necessary due to new Part 902.

Amend 352.35(b)(3) to update the definition of the term “temporary housing” to add a reference to the new Part 902.4(a) regarding hotel/motel facility placements by districts.

Amend § 491.2(f) to clarify that the regulations relating to shelters for homeless persons and families experiencing homelessness set forth in Part 491 do not

apply to commercial hotel/motel facilities used as temporary placements, given that such placements would now be subject to new Part 902.

Amend § 900.2(e) to clarify that the regulations relating to shelters for homeless persons and families experiencing homelessness set forth in Part 900 do not apply to commercial hotel/motel facilities used as temporary placements, given that such placements would now be subject to new Part 902.

Add new Part 902 pertaining to hotel/motel facilities used as emergency placements for persons and families experiencing homelessness.

Add new § 902.1 defining the scope of new Part 902 to apply to hotel/motel facilities used by districts to provide temporary housing assistance to adults, adult families, or families with children who are in need of temporary housing.

Add new § 902.2 defining the terms “adult,” “adult family,” “family with children,” “hotel/motel facilities,” “minor child,” “the Office,” “pregnant person,” “temporary housing,” and “temporary housing assistance.”

Add new § 902.3 providing that a district must submit a district hotel/motel service plan approved by OTDA pursuant subdivision (a) of this section, and clarifying the required content of district hotel/motel service plans.

Add new § 902.4 clarifying: (1) that adults, adult families, and families with children who are PA applicants or recipients that receive THA, may be placed in hotel/motel facilities on a temporary emergency basis when there is no other appropriate temporary housing available; (2) that in referring families with children, primary consideration shall be given to the needs of the children, including specific factors including, but not limited to, educational needs, security, the nature of the facility in which the children would be placed, and factors which will help ensure the minimum disruption of community ties; (3) that the continued need for hotel/motel facility accommodations and the availability of other appropriate and suitable public or private housing in which to house each adult, adult family, and family with children that has been referred by a district to a

hotel/motel facility shall be reviewed, evaluated and authorized periodically, but not less than annually, by the district, which is consistent with inspection requirements in existing shelter regulations; and that the district shall be required to maintain records related to its periodic review, evaluation and authorization and to make them available to OTDA on request.

Add new § 902.5 clarifying: (1) the procedures for conducting assessments and preliminary health screenings for adults and families applying for THA; (2) the procedures for developing independent living plans for families with children admitted to a hotel/motel facility; (3) that a homeless individual or family that applies to a district for THA may be provided with emergency shelter on a temporary, interim basis while the assessment of eligibility to receive THA remains ongoing; (4) that each adult member of a family or single adult must cooperate in the completion of an assessment, that when an adult family member or single adult fails to cooperate in the completion of the assessment, the district must deny the family's or the single adult's application for THA unless non-compliance is due to a physical or mental impairment of the family member or single adult, and, in such cases, the district must refer the family member or single adult with the apparent physical or mental impairment for an evaluation by an appropriate professional; and (5) provides procedures for applicants to document and districts to seek evaluations of claimed impairments.

Add new § 902.6 clarifying the standards required of each hotel/motel facility used to provide THA to adults, adult families, or families with children, and providing that no adult, adult family, or family with children shall be placed in a hotel/motel facility unless all of the requirements set forth in this section are met.

Add new § 902.7 clarifying that individuals or families in receipt of THA in hotel/motel facilities shall be subject to certain rights and obligations, with such rights and obligations being similar to those set forth in regulations for shelters in Parts 491 and 900.

Add new § 902.8 clarifying that it is the responsibility of a district that places adults, adult families, or families with children in hotel/motel facilities on a temporary emergency basis to make provision to ensure that such individuals or families have the ability to obtain meals sufficient to meet their dietary needs.

Add new § 902.9 defining the term “serious incidents” and clarifying the reporting requirements for an owner or operator of a hotel/motel facility and districts in the event of serious injury or death of an PA applicant or recipient that receives THA who has been placed at that hotel/motel facility, or upon learning of any serious incident impacting the safety and well-being of a PA applicant or recipient that receives THA who has been placed at that hotel/motel facility.

Add new § 902.10 setting forth districts’ obligation to inspect hotel/motel facilities to confirm their compliance with this new Part 902, whether they are within or outside the district, before they are used to place PA applicants or recipients that receive THA and every six months thereafter or as determined by OTDA, and clarifying districts’ obligations with respect to such inspections and subsequent reporting and enforcement; affording OTDA the authority to inspect such hotel/motel facilities at any time; and requiring districts to cease and desist from using a hotel/motel facility to place PA applicants or recipients that receive THA where either the district, OTDA, or their respective staffs are denied access to units used to place applicants for or recipients of THA.

Add new § 902.11 clarifying that State reimbursement is available to districts that comply with this new Part 902 for reasonable and necessary costs related to providing THA to public assistance applicants and recipients in hotel/motel facilities, and to clarify that districts are subject to recordkeeping requirements related to such reimbursement.

Add new § 902.12 clarifying that, when it has knowledge that there are violations of law, regulation, or code at a hotel/motel facility, or that there are conditions that are dangerous, hazardous, imminently detrimental to life or health, or that otherwise render the hotel/motel facility – or particular rooms within the

hotel/motel facility – unfit for human habitation, OTDA is authorized to alert appropriate authorities, and may issue an order directing the district to take appropriate actions to confirm that any deficiencies, violations, or conditions are remediated, transfer PA applicants or recipients to unaffected rooms or another appropriate temporary emergency housing, and/or cease and desist from using the hotel/motel facility.

The full text of the proposed regulatory amendments are posted at the following OTDA website: <http://otda.ny.gov/legal/regulatory-activities.asp>.

Part 352 of Title 18 NYCRR is amended to read as follows:

Paragraph (2) of subdivision (e) of § 352.3 is amended to read as follows:

(2) Hotel/motel [accommodations] *facilities* without cooking facilities shall be utilized only when [accommodations] *hotel/motel facilities* with such *cooking* facilities are not available. An allowance for the actual cost of the rental of a refrigerator [, not to exceed \$10 per week per room,] shall be made when a homeless family is temporarily placed in a hotel/motel *facility* which does not have cooking facilities and which provides a refrigerator on a rental basis.

Subdivision (f) of § 352.3 is amended to read as follows:

(f) Reimbursement for shelter costs and restaurant allowances and rental fees for refrigerators as provided for in paragraph (e)(2) of this section is available to social services districts for expenditures made by such districts on behalf of recipients temporarily living in [hotels or motels] *hotel/motel facilities* for so long as the recipients are actively seeking permanent housing[, but in no event for a period in excess of six months unless the local commissioner of social services determines on an annual basis that housing other than hotels or motels or facilities regulated under Part 900 or Part 902 of this Title is not readily available in the social services district and the commissioner submits such determination to the department on an annual basis. Upon such a determination and submission, the social services district will continue to be reimbursed for shelter costs, restaurant allowances as appropriate and rental fees for refrigerators provided to public assistance recipients beyond such six-month period]. A recipient's continued need for hotel/motel accommodations must be reviewed and evaluated monthly. [The maximum reimbursable amount for shelter costs after August 1, 1984 is \$16 per day for the first person in each hotel room, and \$11 per day for the remaining occupants in each room.] Restaurant allowances, if necessary must be provided in accordance with department regulations.

Subdivisions (g) and (h) of § 352.3 are REPEALED and amended to read as follows:

(g) *Reserved*

(h) *Reserved*

Subdivision (m) of § 352.3 is REPEALED.

Paragraph (3) of subdivision (b) of § 352.35 is amended to read as follows:

(3) Temporary housing includes family shelters authorized by Part 900 of this Title and section 352.8(a) of this Part, room and board authorized by section 352.8(b) of this Part which is provided to a homeless person on a temporary basis, hotel/motel facilities authorized by section 352.3(e) of this Part and *section 902.4(a) of this Title, and shelters for adults authorized by Part 491 of this Title.*

Subdivision (f) of § 491.2 is amended to read as follows:

(f) A commercial hotel or motel used as temporary placement pursuant to [section 352.3(e)] *Part 902 of this Title by social services districts to provide temporary housing assistance to adults, adult families, or families with children who are in need of temporary housing*, shall not be considered a shelter for adults, a small-capacity shelter, or a shelter for adult families[, so long as such hotel or motel is not used primarily to provide shelter to recipients of temporary housing assistance].

Subdivision (e) of § 900.2 is amended to read as follows:

(e) A commercial hotel or motel used as temporary placement pursuant to [section 352.3(e)] *Part 902 of this Title by social services districts to provide temporary housing assistance to adults, adult families, or families with children who are in need of temporary housing* shall not be considered a shelter for families [, so long as such hotel or motel is not used primarily to provide shelter to recipients of temporary housing assistance].

A new Part 902 is added to Title 18 NYCRR to read as follows:

***PART 902 HOTELS AND MOTELS USED AS TEMPORARY HOUSING PLACEMENTS
FOR PERSONS AND FAMILIES EXPERIENCING HOMELESSNESS***

(Statutory authority: Social Services Law, §§ 17[a]-[b] and [k], 20[2][b], 20[3][d]-[f], 34[3][c]-[f], 34[6])

Sec.	
902.1	<i>Applicability</i>
902.2	<i>Definitions</i>
902.3	<i>Social Services District hotel/motel facility service plans</i>
902.4	<i>Placements</i>
902.5	<i>Assessments</i>
902.6	<i>Hotel/motel facility standards</i>
902.7	<i>Rights and obligations</i>
902.8	<i>Meals</i>

902.9	<i>Serious incidents and incident reporting</i>
902.10	<i>Inspection</i>
902.11	<i>Reimbursement</i>
902.12	<i>Enforcement</i>

§ 902.1 Applicability.

This Part shall apply to hotel and motel facilities used by social services districts to provide temporary housing assistance to adults, adult families, or families with children who are in need of temporary housing.

§ 902.2 Definitions.

For purposes of this part

(a) Adult means an individual who is not a minor child.

(b) Adult family means:

(1) two adults who are legally married to one another, in a domestic partnership, or in another legally recognized relationship;

(2) two adults who can establish the medical dependence of one upon the other; or

(3) two or more adults who share a “caretaking” (emotionally or physically supportive) or financially interdependent relationship, and who have resided with one another for 180 days immediately prior to the date of their public assistance application for temporary housing assistance.

(c) Family with children means a pregnant person or two or more persons, at least one of whom is a minor child as defined in subdivision (e) of this section, or two persons, one of whom is a pregnant person as defined in subdivision (g) of this section, who:

(1) constitute a household in receipt of the Emergency Assistance to Families, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Assistance for Adults, Emergency Safety Net Assistance, Supplemental Security Income (SSI) programs, or additional State payments and any other persons related to a member of such household who are eligible for Emergency Assistance to Families, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Safety Net Assistance, SSI programs, or additional State payments; or

(2) although not currently in receipt of Emergency Assistance to Families, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Assistance for

Adults, Emergency Safety Net Assistance, SSI programs, or additional State payments, apply for such benefits and are found eligible for participation in such programs.

(d) Hotel/motel facilities are commercial establishments that provide temporary overnight accommodations in a room or rooms.

(e) Minor child means an individual who is not yet 18 years old, or who is between 18 and 19 and is a full-time student in a secondary school, or in the equivalent level of vocational or technical training.

(f) The Office means the New York State Office of Temporary and Disability Assistance.

(g) Pregnant person means a person, 18 years of age or older, who:

(1) has been diagnosed by a qualified medical professional as being pregnant;

(2) has no children currently residing with them; and

(3) is a recipient of Emergency Assistance to Families, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Assistance for Adults, SSI benefits, or additional State payments, or applies for such benefits and is found eligible to participate in such programs.

(h) Temporary housing includes family shelters authorized by Part 900 of this Title and section 352.8(a) of this Title, room and board authorized by section 352.8(b) of this Title that is provided to a homeless person on a temporary basis, hotel/motel facilities authorized by section 352.3(e) of this Title and section 902.4(a) of this Part, and shelters for adults authorized by Part 491 of this Title.

(i) Temporary housing assistance is a public assistance benefit provided temporarily for an eligible homeless individual or family to meet an immediate need for shelter pursuant to section 352.35 of this Title.

§ 902.3 Social Services District hotel/motel facility service plans.

(a) Social Services District hotel/motel facility service plans. A district hotel/motel facility service plan must be submitted by the social services district to the office for approval and must be updated and resubmitted to the office upon any change to the information contained therein. Social Services District hotel/motel facility service plans must provide the following information for adults, adult families, and families with children placed in hotel/motel facilities:

(1) a list of the hotel/motel facilities used by the social services district, which shall be updated annually, and indicate:

- (i) *the name and location of each hotel/motel facility;*
 - (ii) *the number of units at each identified hotel/motel facility potentially used to place public assistance applicants or recipients that receive temporary housing assistance;*
 - (iii) *the rate(s) paid for each hotel/motel room in which public assistance applicants or recipients that receive temporary housing assistance are placed;*
 - (iv) *the population served by each hotel/motel facility (adults, adult families and families with children);*
 - (v) *a description of the public transportation available to persons placed at each hotel/motel facility or reasonable walking distance;*
- (2) *a plan for providing case management services;*
- (3) *a plan for providing assistance in making an application for public benefits including, but not limited to, public assistance, Medical Assistance, Supplemental Nutrition Assistance Program benefits, Supplemental Security Income, or unemployment benefits;*
- (4) *a plan for assisting persons placed in hotel/motel facilities to secure necessary supportive social and mental health services including substance use disorder services;*
- (5) *a plan for providing social rehabilitation services including assistance in obtaining permanent housing; assistance in participating in employment assessments, job training, and job placement services, where appropriate;*
- (6) *a plan for providing linkage to health services to persons placed in hotel/motel facilities, including any arrangements with accredited medical institutions, clinics or providers for the referral for emergency treatment and care, and arrangements for providing linkage to prenatal care to pregnant persons;*
- (7) *a plan for providing access to childcare services, as necessary;*
- (8) *a plan for providing persons placed in hotel/motel facilities with meals (provided onsite, restaurant allowance, etc.); and*
- (9) *such other information as may be requested by the office.*

§ 902.4 Placements.

- (a) *Adults, adult families, and families with children who are public assistance applicants or recipients that receive temporary housing assistance may be placed in a hotel/motel facility on a temporary emergency basis when there is no other appropriate temporary housing available in which to house such individuals.*
- (b) *In referring families with children, primary consideration shall be given to the needs of the children. Specific factors considered must include but shall not be limited*

to educational needs, security, the nature of the hotel/motel facility in which the children would be placed, and efforts to minimize the disruption of community ties.

(c) The continued need for hotel/motel facilities and the availability of other appropriate and suitable public or private housing in which to house each adult, adult family, and family with children that has been referred by a social services district to a hotel/motel facility shall be reviewed, evaluated and authorized by the social services district on a periodic basis, at least once a year, and the social services district shall maintain records related to such review, evaluation and authorization and make them available to the office on request.

§ 902.5 Assessments.

(a) When an individual or family applies for temporary housing assistance, the social services district or the social services district's designee shall commence to evaluate the family or individual to assess the family's or individual's housing and housing-related public assistance and care needs pursuant to section 352.35 of this Title, and the suitability of the family or individual for placement in a shelter, or in a hotel/motel facility, by the end of the next business day. The assessment shall be completed by the social services district or its designee as soon as possible thereafter.

(b) Preliminary Health Screenings.

(1) Each individual or family placed in a hotel/motel facility must have a preliminary health screening at or before the time of intake, but in no case later than 24 hours after their placements. Such screening must be performed to ascertain an appropriate available temporary emergency housing placement for the individual or family.

(2) Notwithstanding paragraph (1) of this subdivision, a new preliminary health screening is not required when an individual or family moves from one temporary housing placement to another temporary housing placement while staying in the social services district's emergency housing system, if the original preliminary health screening is less than one year old.

(3) If determined necessary by the district, or requested by the individual or family, such individual or family should be referred by the social services district for physical examination, laboratory tests, inoculations and other treatment, as appropriate.

(c) *Families with children.*

(1) *Independent Living Plan.*

(i) *Within ten (10) days of admission of a family with children to a hotel/motel facility, the social services district and/or the social services district's designee, with the cooperation of each adult member of the family, must develop an independent living plan to the extent required by section 352.35 of this Title.*

(ii) *The independent living plan must be reviewed with the family at least once every two weeks and such plan must be revised as necessary to assist the family in obtaining permanent housing. The family shall have access to its independent living plan and case file.*

(iii) *The social services district or designee must document the independent living plan and all direct services and service referrals to other entities provided while the family is in the hotel/motel facility.*

(d) *homeless family or single adult that applies to a social services district for public assistance may be provided with emergency shelter on a temporary, interim basis, while the assessment of eligibility to receive temporary housing assistance remains ongoing, using a predetermination grant of assistance as outlined in section 351.8(c)(4) of this Title.*

(e) *Each adult member of a family or single adult must cooperate in the completion of an assessment. When an adult family member or single adult fails to cooperate in the completion of the assessment, the social services district must deny the family's or the single adult's application for temporary housing assistance unless non-compliance is due to a physical or mental impairment of the family member or single adult. When such a physical or mental impairment appears to be present and interfering with a family member's or single adult's ability to cooperate in and complete an assessment, the social services district must refer the family member or single adult with the apparent physical or mental impairment for an evaluation by an appropriate professional. When the family member or single adult states that they have a physical or mental impairment that interferes with their compliance, they must provide documentation of this impairment unless the physical or mental impairment is known or apparent to shelter or intake staff, in which case the family member or single adult shall not be required to provide documentation of the physical or mental impairment. If they do not have such documentation and cannot obtain it with or without the assistance of the social services district, the social services district may refer the individual to an appropriate qualified professional for an evaluation and/or for such documentation. The social services district also may refer the individual to an appropriate qualified professional for an independent medical examination if the social services district believes additional information is necessary to confirm that the individual has a physical or mental impairment that is interfering with their ability to cooperate in and complete an assessment.*

§ 902.6 Hotel/motel facility standards.

- (a) No adult, adult family, or family with children shall be placed in a hotel/motel facility unless all of the requirements set forth in this section are met.*
- (b) Each hotel/motel facility used to provide temporary housing assistance to adults, adult families, or families with children must be:*
 - (1) in a good state of repair and sanitation, and each hotel/motel room used for that purpose must be clean, sanitary, and free of insects, rodents and trash;*
 - (2) cleaned at least weekly by hotel/motel facility staff; and*
 - (3) equipped with furniture necessary for daily living, including but not limited to bureaus, chairs, and a bed or beds.*
- (c) Sleeping rooms for adults and adult families that have two or more individuals shall have a minimum of 60 square feet per adult.*
- (d) When children are placed in the same room or unit as adults, there shall be sufficient beds so children do not have to share beds with the adults.*
- (e) Each family with a child under the age of two referred to a hotel/motel facility by a social services district must be provided by the social services district with a Safe Sleep Brochure containing crib safety information published by the State Department of Health.*
- (f) Each room or unit used to place families with a child under the age of two shall be equipped with a suitable crib compliant with all Federal and State safety standards, and infant safe sleep signage available from the State Department of Health, shall be displayed prominently in each sleeping area in which a crib/pack and play is placed for a child under the age of two within the household. If the hotel/motel facility does not provide cribs or pack and plays, the social services district must provide them.*
- (g) All mattresses and bedding material shall be clean. Each bed shall have at least two clean sheets, adequate clean blankets, clean pillows and pillowcases. A complete change of linens shall be made by hotel/motel facility staff at least once a week, and more often where individual circumstances warrant or when a new individual or family occupies the unit. Each unit shall be supplied with towels, soap and toilet tissues. A clean towel shall be provided to each household member at least weekly or more often where individual circumstances warrant. Soap and toilet tissues shall be provided as necessary.*

(h) Each room or unit must have operational door and window locks. For each room or unit used to place families with children, windows at and above the second floor must have window guards in place unless the HVAC system is vented directly to the exterior of the unit and windows are sealed closed.

(i) A heating system shall be permanently installed and operated in accordance with any applicable State or local law or regulation, such as the New York State Uniform Fire Prevention and Building Code.

(j) Each family with children must have a private bathroom. At a minimum, the bathroom must include a functioning toilet, as well as a sink and a shower or bathtub. Each bathroom fixture must be properly maintained with hot and cold running water as mandated by any applicable State or local law or regulation, such as the New York State Uniform Fire Prevention and Building Code. Single adults and adult families may be placed in rooms with common bathroom facilities, provided such facilities comply with any applicable State or local law or regulation, such as the New York State Uniform Fire Prevention and Building Code.

(k) Each sleeping area will contain a working smoke alarm. Each sleeping area will contain a working carbon monoxide detector/alarm as required by any applicable State or local law or regulation, such as the New York State Uniform Fire Prevention and Building Code. Each hotel/motel facility must maintain its fire/smoke/carbon monoxide alarms in accordance with any applicable State or local law or regulation, such as the New York State Uniform Fire Prevention and Building Code.

§ 902.7 Rights and obligations.

Public assistance applicants or recipients that receive temporary housing assistance in hotel/motel facility placements shall be subject to the following rights and obligations:

(a) Upon placement, or as soon as practicable after placement, to a hotel/motel facility for public assistance applicants or recipients that receive temporary housing assistance, such individual or family must be provided with a copy of the hotel/motel facility rules setting forth their rights and responsibilities while placed in the hotel/motel facility, and must be advised in writing of the consequences of failing to comply with the rules of the hotel/motel facility including discharge, and in certain circumstances discontinuance of temporary housing assistance.

(b) Public assistance applicants or recipients that receive temporary housing assistance rights. At a minimum, the social services district or their designee shall afford each public assistance applicant or recipient that receives temporary housing assistance the following rights, which will be set forth in the rules:

(1) the right to leave and return to the hotel/motel facility and grounds at reasonable hours in accordance with the rules of the hotel/motel facility;

- (2) *that their civil rights shall not be infringed;*
- (3) *that their religious liberties shall not be infringed;*
- (4) *the right to have private written and verbal communications including the right to meet with legal representatives, legal counsel, medical providers, social workers, and any other service providers or persons authorized by the social services district. Any requirements as to prior notice and hours of access shall be set forth in the rules;*
- (5) *the right to receive and send mail or any other correspondence without interception or interference, except that incoming mail may be scanned and x-rayed to ensure that it does not contain contraband that could pose a threat to the security of the hotel/motel facility or to the health and safety of public assistance applicants or recipients that receive temporary housing assistance or staff;*
- (6) *the right to join with other individuals or families in receipt of temporary housing assistance or individuals to work for improvements in care;*
- (7) *the right to present grievances on one's own behalf, or on behalf of other individuals or families in receipt of temporary housing assistance, to the operator or operator's designee, to the social services district, and/or the office, without fear of reprisal;*
- (8) *the right to manage one's own financial affairs;*
- (9) *the right to confidential treatment of personal, social, financial and medical records;*
- (10) *the right to receive courteous, fair and respectful care and treatment;*
- (11) *the right to be free from restraint or confinement and shall not be locked in a room at any time;*
- (12) *the right to privacy in caring for personal needs;*
- (13) *the right to have their version of the events leading to an accident or incident in which they are involved included on all accident or incident reports;*
- (14) *the right to not be obliged to perform work by coercion or threat;*
- (15) *the right not to be permitted, or obliged, to provide any operator or agent of the operator any gratuity in any form for services provided or arranged for in accord with law or regulation; and*

(16) public assistance applicants or recipients that receive temporary housing assistance shall have the right to request that a hotel/motel facilities operator or social services district make reasonable accommodations for any physical or mental disability that substantially limits one or more major life activities.

(c) Rules.

The rules must inform public assistance applicants or recipients that receive temporary housing assistance of the obligations upon which their continued placement in the hotel/motel facility depends and the sanctions for noncompliance. At a minimum, rules concerning the following obligations must be set forth in the rules:

(1) applying for Emergency Assistance to Families, Family Assistance, Safety Net Assistance, Emergency Safety Net Assistance, Veteran Assistance, Emergency Assistance for Adults, SSI, or additional State payments, whichever is applicable, to the extent that the public assistance applicants or recipients that receive temporary housing assistance are eligible to receive such benefits pursuant to section 349.3 of this Title;

(2) developing, carrying out and completing a service or independent living plan with social services district or their designee's staff to achieve permanent housing and reviewing such plan with the social services district or their designee's staff at least once every two weeks;

(3) complying with any responsibilities, conditions or requirements set forth in the public assistance applicants or recipients that receive temporary housing assistance's independent living plan, where applicable;

(4) seeking and accepting permanent housing;

(5) seeking and accepting employment;

(6) using communal areas appropriately;

(7) notifying social services district or their designee's staff of any confirmed or suspected communicable illnesses, reportable to the State Department of Health;

(8) cooperating with the social services district or their designee's staff in an assessment of the family's housing and housing-related public assistance and care needs;

(9) refraining from engaging in acts which endanger the health and safety of oneself or others, or which substantially interfere with the orderly operation of the hotel/motel facility;

(10) complying with all public assistance requirements that apply to the public assistance applicants or recipients that receive temporary housing assistance; and

(11) paying to the hotel/motel facility or the social services district the public assistance applicants or recipients that receive temporary housing assistance's share of the cost of temporary housing in the amount determined by the social services district.

(d) Each public assistance applicant or recipient that receives temporary housing assistance shall have the responsibility to obey the rules of the hotel/motel facility and to respect the personal rights and private property of the other public assistance applicants or recipients that receive temporary housing assistance.

§ 902.8 Meals.

(a) A social services district that places adults, adult families, or families with children in hotel/motel facilities on a temporary emergency basis must make provision to ensure that such individuals or families have the ability to obtain meals sufficient to meet their dietary needs.

§ 902.9 Serious incidents and incident reporting.

(a) In the event of a serious injury or death of a public assistance applicant or recipient that receives temporary housing assistance who has been placed by a social services district in a hotel/motel facility, the owner or operator of the hotel/motel facility must:

(1) immediately notify the appropriate local authorities to obtain necessary assistance and services; and

(2) immediately notify the social services district.

(b) Should the owner or operator of a hotel/motel facility become aware of any serious incident impacting upon the safety and well-being of a public assistance applicant or recipient that receives temporary housing assistance who has been placed at that hotel/motel facility by a social services district, the owner or operator must immediately alert such district. For purposes of this section, "serious incidents" include, but are not limited to, deaths by natural or unnatural causes, suicides, life-threatening injuries including drug overdoses, assaults, rapes, sexual assaults, attempted rapes, attempted sexual assaults, arrests, acts of domestic violence that result in injury, or criminal activity.

(c) Upon learning of any serious incident impacting upon the safety and well-being of a public assistance applicant or recipient that receives temporary housing assistance who has been placed at a hotel/motel facility, the social services district shall immediately alert the office and submit a copy of the office-prescribed Incident Report form to the office within three business days.

§ 902.10 Inspection.

(a) Social services districts must inspect each hotel/motel facility, whether the hotel/motel facility is within the social services district or outside the social services district before the hotel/motel facility is used to place public assistance applicants or recipients that receive temporary housing assistance, to confirm that the hotel/motel facility is in compliance with the requirements set forth in this Part. The inspection report must be sent to the office prior to placing public assistance applicants or recipients that receive temporary housing assistance at the hotel/motel facility.

(b) Notwithstanding subdivision (a) of this section, a social services district may place public assistance applicants or recipients that receive temporary housing assistance on an emergency basis in a hotel/motel facility that has not been inspected by the social services district. When a social services district places public assistance applicants or recipients that receive temporary housing assistance at a hotel/motel facility that it has not inspected, the social services district must:

- (1) alert the office on the next business day;*
- (2) inspect the hotel/motel facility within two business days of the placement;*
and
- (3) provide a copy of the inspection report to the office within three business days of the inspection.*

(c) Social services districts thereafter must inspect each hotel/motel facility, whether the hotel/motel facility is within the social services district or outside the social services district, that they use to place public assistance applicants or recipients that receive temporary housing assistance at least once every six months or as determined by the office to verify that the hotel/motel facilities continue to meet the requirements set forth in this Part.

(d) A written report shall be made of each such inspection and shall be maintained at the office of the social services district, together with such other information as the social services district may maintain concerning the individuals and families placed in such hotel/motel facilities. A copy of each inspection report shall be provided to the office within 20 business days of the inspection.

(e) *If a social services district does not use a hotel/motel facility to place any public assistance applicant or recipient that receives temporary housing assistance for three consecutive months, the social services district is not obligated to continue inspecting the hotel/motel facility. However, the social services district must inspect the hotel/motel facility before resuming use of such hotel/motel facility to place public assistance applicants or recipients that receive temporary housing assistance and shall inspect the hotel/motel facility at least once every six months thereafter.*

(f) *If a social services district finds that a hotel/motel facility used to place public assistance applicants or recipients that receive temporary housing assistance, or an individual hotel/motel room is not in compliance with the requirements set forth in this Part, the social services district must direct the hotel/motel facility to correct the violation(s) within 30 days or less. If the violation is determined to be dangerous, hazardous, imminently detrimental to life or health, or otherwise renders the hotel/motel facility or an individual hotel/motel room not fit for human habitation, the social services district must immediately cease placing individuals at the hotel/motel facility or relocate any persons who had been placed at the hotel/motel facility to another appropriate room in the hotel/motel facility or to other appropriate housing. If the hotel/motel facility refuses to correct any cited violations, the social services district must cease placing individuals at the hotel/motel facility and relocate any clients that had been placed in the hotel/motel facility. Social services districts must immediately inform the office in writing whenever they cease placing individuals at a particular hotel/motel facility or relocate any persons who had been placed at the hotel/motel facility to another appropriate room or other appropriate housing for any of the reasons set forth in this subdivision.*

(g) *The office may inspect any hotel/motel facility used by a social services district to place public assistance applicants or recipients that receive temporary housing assistance, at any time, irrespective of whether during regular business hours or at night or on weekends.*

(h) *A social services district will cease and desist from using any hotel/motel facility where either the social services district, the office, or their respective staffs are denied access to units used to place public assistance applicants or recipients that receive temporary housing assistance.*

§ 902.11 Reimbursement.

To the extent that a social services district is compliant with all requirements of this Part, State reimbursement is available for social services district payments for reasonable and necessary costs related to providing temporary housing assistance to public assistance applicants and recipients in hotel/motel facilities. A social services district may claim and receive reimbursement from the office for allowable costs associated with such applicants and recipients under the Family Assistance, Emergency Assistance for Families, Safety Net Assistance, Emergency Safety Net Assistance, or Emergency Assistance for Adults programs, as applicable. In addition, social services districts are subject to the recordkeeping requirements contained in Part 600 of this Title

with respect to all temporary housing assistance to public assistance applicants and recipients in hotel/motel facilities for which reimbursement is claimed.

§ 902.12 Enforcement.

Whenever the office has knowledge, acquired by announced or unannounced inspections, audits, or other methods, or has been advised by a social services district or any other State or local entity authorized to conduct inspections or audits, that there exists a violation of law, regulation, or code at a hotel/motel facility used to place public assistance applicants or recipients that receive temporary housing assistance, wherein there are conditions that are dangerous, hazardous, imminently detrimental to life or health, or otherwise render the hotel/motel facility, or particular rooms within the hotel/motel facility, as unfit for human habitation, the office may alert the appropriate authorities including but not limited to the New York State Department of Health, and may issue an order directing the social services district to:

- (1) confirm that any deficiencies, violations, or conditions are remediated;*
- (2) transfer public assistance applicants or recipients that receive temporary housing assistance who have been referred to the hotel/motel facility to unaffected rooms within the same hotel/motel facility, or to another appropriate temporary emergency housing; and/or*
- (3) cease and desist from using the hotel/motel facility to place public assistance applicants or recipients that receive temporary housing assistance.*

Regulatory Impact Statement

1. Statutory authority:

Social Services Law (SSL) § 17(a)-(b) and (k) provide, in part, that the Commissioner of the Office of Temporary and Disability Assistance (OTDA) shall “determine the policies and principles upon which public assistance, services and care shall be provided within the state both by the state itself and by the local governmental units ...,” shall “make known his policies and principles to local social services officials and to public and private institutions and welfare agencies subject to his regulatory and advisory powers ...,” and shall “exercise such other powers and perform such other duties as may be imposed by law.”

SSL § 20(2)(b) provides, in part, that OTDA shall “supervise all social services work, as the same may be administered by any local unit of government and the social services officials thereof within the state, advise them in the performance of their official duties and regulate the financial assistance granted by the state in connection with said work.” Pursuant to SSL § 20(3)(d)-(f), OTDA is authorized to promulgate rules, regulations, and policies to fulfill its powers and duties under the SSL and “to withhold or deny state reimbursement, in whole or in part, from or to any social services district or any city or town thereof, in the event of their failure to comply with law, rules or regulations of [OTDA] relating to public assistance and care or the administration thereof.”

SSL § 34(3)(c) requires OTDA’s Commissioner to “take cognizance of the interests of health and welfare of the inhabitants of the state who lack or are threatened with the deprivation of the necessities of life and of all matters pertaining thereto.” Pursuant to SSL § 34(3)(d), OTDA’s Commissioner must exercise general supervision over the work of all social services districts (districts). SSL § 34(3)(e) provides that OTDA’s Commissioner must enforce the SSL and the State regulations within the State and in the districts. Pursuant to SSL § 34(3)(f), OTDA’s Commissioner must establish regulations for the administration of public

assistance and care within the State by the districts and by the State itself, in accordance with the law.

Pursuant to SSL § 34(6), OTDA's Commissioner "may exercise such additional powers and duties as may be required for the effective administration of the department and of the state system of public aid and assistance."

2. Legislative objectives:

OTDA understands that it was the intent of the Legislature in enacting the aforementioned statutes that OTDA establish rules, regulations, and policies to provide for the health, safety and general welfare of adults and families experiencing homelessness.

3. Needs and benefits:

There is presently not an explicit regulatory requirement that public assistance (PA) applicants or recipients that receive Temporary Housing Assistance (THA) who are placed at hotel/motel facilities receive case management and supportive services (nonetheless, most districts provide such services in hotel/motel facilities). The proposed regulations would provide consistency across the districts by requiring PA applicants or recipients that receive THA who are placed in hotel/motel facilities, receive case management and supportive services, which may include social, health, or mental health services, as well as childcare, employment assistance, and assistance in applying for other public benefits. OTDA notes that all PA applicants or recipients that receive THA, regardless of where they are placed, benefit from case management and supportive services which help such applicants or recipients find and maintain permanent housing. OTDA further notes that explicitly requiring districts to provide such services to PA applicants or recipients that receive THA who are placed in hotel/motel facilities will be consistent with most districts' current practices and will benefit not only the individuals and families placed at hotel/motel facilities, but also the

districts and community at large by helping such applicants or recipients find and maintain permanent housing.

Furthermore, any minimal costs incurred by the proposed regulations as outlined below are outweighed by the benefits of: (1) creating parity between shelter placements and hotel/motel placements in terms of services, rights, and obligations; (2) providing a regulatory framework for oversight of hotel/motel facilities instead of relying on a patchwork of regulations and district policies; and (3) allowing districts to have more than two people in large rooms, thus increasing capacity to assist homeless PA applicants or recipients that receive THA.

4. Costs:

The proposed regulatory amendments are not anticipated to result in significant additional costs for the State or districts, as most of the requirements set forth in the proposed regulations are already being carried out under existing policies and procedures, including most inspections, reporting, and recordkeeping. Accordingly, it is not anticipated that this regulation will result in any significant impact upon property taxpayers. While the additional costs to districts is anticipated to be minimal, a few small rural districts expressed concern regarding the need for additional staff and associated funding to provide case management supports under the proposed regulations. In the few rural districts that may not be providing services consistent with the requirements contained in the proposed regulations in hotel/motel facility placements, the anticipated costs should nonetheless be low and may be at least somewhat offset by reduced PA costs resulting from PA applicants or recipients moving into permanent housing sooner than would be expected in the absence of such services. For the limited number of districts that do not already provide case management services to individuals and families experiencing homelessness that are placed in hotel/motel facilities, costs are estimated to be less than \$120,000 annually. Furthermore, districts

would have the ability to decide how services will be provided, which should mitigate the impact of the minimal costs. For example, districts would be able to provide case management services for THA recipients placed in hotel/motel facilities using the same staff and in conjunction with existing required case management services associated with helping individuals obtain employment.

Moreover, the proposed regulations ensure that the same services are provided regardless of whether PA applicants or recipients are placed in shelters or hotel/motel facilities. One area of change that may reduce costs and burden on districts in the proposed regulations is related to inspections. Currently, districts are required to inspect the hotel/motel facilities used as placements at least once every six months and to send reports of their inspections to OTDA within 30 days of completion of the inspection. While the proposed regulatory amendments keep the six month inspection requirements for hotel/motel facilities that are being used for placement, they may reduce administrative burdens for some districts by providing that hotel/motel facilities need not be continuously inspected if they are not used to place PA applicants or recipients that receive THA for three consecutive months. Additionally, the added responsibility in the proposed regulatory amendments of inspecting a hotel/motel facility before it is used for an initial placement is anticipated to be minimal as compared to the existing requirements (see 18 NYCRR § 352.3(h)).

As part of the proposed regulatory amendments, districts are also required to conduct assessments and preliminary health screenings for placements in hotel/motel facilities and provide ongoing case management services for temporary housing residents to support shelter exit, consistent with placements in shelter, and districts would be required to submit a plan to OTDA on how they will ensure that clients have access to needed services. It is expected that most districts are already providing services to clients that are placed in hotel/motel facilities. While districts could incur some additional administrative costs associated with preparing their district hotel/motel service plans, those costs are

expected to be minimal. While the additional costs to districts are anticipated to be minimal, a few small rural districts expressed concerns regarding the need for additional staff and associated funding to provide case management supports under the proposed regulations.

5. Local government mandates:

The proposed regulatory amendments would require each district that will be placing PA applicants or recipients that receive THA in hotel/motel facilities to submit a Social Services District hotel/motel facility service plan for hotel/motel facilities that the district will use to place PA applicants/recipients and for which the district will seek reimbursement or make payments to or from State or State-administered grants or funds. As noted above, Social Services District hotel/motel facility service plans must describe, among other things, the district's plan for providing case management services, assistance with applying for other public benefits, supportive social and mental health services, meal services, and health services to persons and families placed in hotel/motel facilities.

Adoption of the proposed regulatory amendments would continue the requirement for districts to inspect hotel/motel facilities before using those facilities to place PA applicants or recipients that receive THA, and at least once every six months thereafter. Districts would also be required to submit an initial inspection report to OTDA for a hotel/motel facility before the district begins placing PA applicants/recipients there, and within 20 business days of each subsequent inspection of the hotel/motel facility.

Districts would also be required to report serious incidents involving PA applicants/recipients placed in hotel/motel facilities. Districts also would be required to direct the hotel/motel facility to correct violation(s) of applicable regulatory requirements within 30 days. If the violation is dangerous, hazardous, imminently detrimental to life or health, or renders the facility or room not fit for human habitation, the district would be required to immediately cease placing

individuals at the hotel/motel facility or to relocate any persons who had been placed at the facility, either to other appropriate housing or to another appropriate room in the facility. Where a hotel/motel facility refuses to correct cited violations, the district would be mandated to cease placing individuals at the hotel/motel facility and to relocate any clients that had been placed in the hotel/motel facility. Districts would be required to immediately inform the OTDA in writing whenever they cease placing individuals at a particular hotel or motel or relocate any persons who had been placed at the hotel/motel facility to another appropriate room or other appropriate housing for any of the reasons set forth in the applicable provisions of the proposed regulatory amendments.

6. Paperwork:

The paperwork requirements of the proposed regulatory amendments are discussed in § 5, above.

7. Duplication:

The proposed regulatory amendments would not duplicate, overlap, or conflict with any existing State or federal rules or regulations as they would repeal and replace any overlapping State regulations regarding hotel/motel placements.

8. Alternatives:

A possible alternative to the proposed regulatory amendments would be to refrain from promulgating them. However, such inaction would diminish OTDA's ability to exercise needed oversight of hotel/motel facilities that the districts use to place PA applicants or recipients that receive THA. The current State regulation pertaining to hotel/motel facility placements is outdated and fails to provide necessary guidance to districts as to their responsibilities vis-à-vis the hotel/motel facilities used by them to place PA applicants or recipients that receive THA. Insofar as such inaction could impair OTDA's ability to provide needed services and safeguards to persons and families experiencing

homelessness who are placed in hotel/motel facilities, and would deprive districts of necessary clarification and guidance, OTDA does not consider inaction a viable alternative to the proposed regulatory amendments.

9. Federal standards:

The proposed regulatory amendments would not conflict with federal statutes, regulations or policies.

10. Compliance schedule:

Districts that place PA applicants/recipients that receive THA in hotel/motel facilities would be required to immediately comply upon the adoption of the proposed regulations. OTDA plans to issue administrative guidance to districts prior to the adoption of the proposed regulatory amendments. The administrative guidance would include, among other information, details regarding the manner and form to submit district hotel/motel service plans and serious incident reports.

Regulatory Flexibility Analysis for Small Businesses and Local Governments

1. Effect of rule:

The proposed regulatory amendments would apply to all 58 social services districts (districts) in the State, as well as to the operators of hotel/motel facilities that are used by districts to place public assistance (PA) applicants or recipients that receive Temporary Housing Assistance (THA) when no other suitable public or private housing is available. The proposed regulations require that PA applicants or recipients that receive THA who are placed in hotel/motel facilities would receive case management and supportive services, which may include social, health, or mental health services, as well as childcare, employment assistance, and assistance in applying for other public benefits.

2. Compliance requirement:

The proposed regulatory amendments would clarify the responsibilities of districts with respect to hotel/motel facilities used by districts to place PA applicants or recipients that receive THA.

The proposed regulatory amendments would require each district that places PA applicants or recipients that receive THA in hotel/motel facilities to submit to the Office of Temporary and Disability Assistance (OTDA) for approval a Social Services District hotel/motel facility service plan. Such plans must include a list of the hotel/motel facilities used by the district and describe, among other things, the district's plan for providing case management services, assistance in applying for other public benefits, obtaining supportive social and mental health services, meal services, and health services to persons and families placed in hotel/motel facilities.

Districts would be required to inspect hotel/motel facilities before placing PA applicants or recipients that receive THA in those facilities, and at least every six months thereafter, or as otherwise determined by OTDA, for so long as the district continues using the hotel/motel facilities. Districts would also be required to submit their initial inspection reports to OTDA before using the facility to place PA applicants or recipients that receive THA; subsequent inspection reports would have to be submitted to OTDA within 20 business days of those inspections. If a district does not use a hotel/motel facility to place PA applicants or recipients that receive THA for three consecutive months, the district would not be obligated to continue inspecting the hotel/motel facility; however, the district would be obligated to inspect the hotel/motel facility before resuming use of the hotel/motel facility.

When a hotel/motel facility or an individual hotel/motel facility room are not in compliance with the applicable regulatory requirements, the district would be required to direct the hotel/motel facility to correct the violation(s) within 30 days. If the violation is one that is dangerous, hazardous, imminently detrimental to life or health, or renders the facility or room not fit for human habitation, the district would be required to immediately cease placing individuals at the hotel/motel facility or relocate any persons who had been placed at the hotel/motel facility either to other appropriate housing or to another appropriate room in the hotel/motel facility. Where a hotel/motel facility refuses to correct cited violations, the district would be required to cease placing individuals at the hotel/motel facility and relocate any clients that had been placed in the facility. Districts would also be required to inform OTDA in writing immediately whenever they cease placing individuals at a particular hotel/motel facility or they relocate any persons who originally had been placed at the hotel/motel facility to another appropriate room or other appropriate housing as a result of a violation.

Under the proposed regulatory amendments, both hotel/motel facility owners or operators and districts would be required to report serious incidents impacting upon the safety and well-being of PA applicants or recipients that receive THA who are placed at the hotel/motel facility. In short, the owner or operator would be obligated to immediately report the incident to the district, which, upon learning of the incident, would be required to immediately notify OTDA of such incident, and to submit a written incident report to OTDA within three business days.

3. Professional services:

The need for additional professional services should be limited. Districts should already possess the necessary expertise to prepare district hotel/motel service plans without the need for securing professional services. The required services parallel shelter services requirements that already apply to all districts, and many districts are already applying these services in hotel/motel facilities used to place PA applicants or recipients that receive THA. Nor must districts have particularized expertise to comply with hotel/motel facility inspection requirements set forth in the proposed regulatory amendments.

4. Compliance costs:

The proposed regulatory amendments are not anticipated to result in significant additional costs for the State or districts, as most of the requirements set forth in the regulations are already being carried out under existing policies and procedures, including most inspections, reporting, and recordkeeping. Accordingly, it is not anticipated that this proposed regulation will result in any significant impact upon property taxpayers. While the additional costs to districts are anticipated to be minimal, a few small rural districts expressed concern regarding the need for additional staff and associated funding to provide case management supports under the proposed regulations. In the few rural districts that may not be providing services consistent with the requirements contained in the proposed

regulations in hotel/motel facility placements, the anticipated costs should nonetheless be low and may be at least somewhat offset by reduced PA costs resulting from PA applicants or recipients moving into permanent housing sooner than would be expected in the absence of such services. For the limited number of districts that do not already provide case management services to individuals and families experiencing homelessness that are placed in hotel/motel facilities, costs are estimated to be less than \$120,000 annually. Furthermore, districts would have the ability to decide how services will be provided, which should mitigate the impact of the minimal costs. For example, districts would be able to provide case management services for THA recipients placed in hotel/motel facilities using the same staff and in conjunction with existing required case management services associated with helping individuals obtain employment. Moreover, the proposed regulations ensure that the same services are provided regardless of whether PA applicants or recipients are placed in shelters or hotel/motel facilities. One area of change that may reduce costs and burden on districts in the proposed regulations is related to inspections. Currently, districts are required to inspect the hotel/motel facilities used as placements at least once every six months and to send reports of their inspections to OTDA within 30 days of completion of the inspection. While the proposed regulatory amendments keep the six month inspection requirements for hotel/motel facilities that are being used for placement, they may reduce administrative burdens for some districts by providing that hotel/motel facilities need not be continuously inspected if they are not used to place PA applicants or recipients that receive THA for three consecutive months. Additionally, the added responsibility in the proposed regulatory amendments of inspecting a hotel/motel facility before it is used for an initial placement is anticipated to be minimal as compared to the existing requirements (see 18 NYCRR § 352.3(h)).

As part of the proposed regulatory changes, districts would also be required to conduct assessments and preliminary health screenings and provide case

management services for placements in hotel/motel facilities consistent with placements in shelter, and districts would be required to submit a plan to OTDA on how they will ensure that clients have access to needed services. It is expected that most districts are already providing services to clients that are placed in hotel/motel facilities. Districts can choose to provide services themselves, can link clients with services, or can engage with a not for profit to provide the services. This model gives flexibility to districts as to how services will be delivered.

5. Economic and technological feasibility:

Districts already have the economic and technological abilities to comply with the proposed regulatory amendments, which parallel shelter requirements in many respects and frequently reflect current practices and procedures in hotel/motel facilities.

6. Minimizing adverse impact:

OTDA considered multiple approaches to minimize adverse impacts on districts in the development of these regulations. An alternative approach that was rejected would have required districts to develop an operational plan for each hotel/motel facility that they intend to use. Instead, OTDA proposes a more streamlined requirement for districts to submit a list of hotel/motel facilities and basic information annually, and to submit a service plan only once and when the information therein changes, which will reduce the administrative burden on districts by decreasing the amount of information that would need to be submitted to OTDA and reducing the frequency of required plan updates. Another alternative to the proposed regulatory amendments would be to refrain from promulgating them. However, such inaction would diminish OTDA's ability to exercise needed oversight of hotel/motel facilities that the districts use to place PA applicants or recipients that receive THA and impair OTDA's ability to ensure

that persons and families experiencing homelessness receive needed services. OTDA does not consider inaction a viable alternative to the proposed regulatory amendments. Given all of the facts and circumstances, the proposed regulations minimize adverse impact to local governments to the extent possible without jeopardizing the safety of temporary housing residents or precluding services needed to expedite exits from temporary to permanent housing. OTDA notes that all PA applicants or recipients that receive THA, regardless of where they are placed, benefit from case management and supportive services which help such applicants or recipients find and maintain permanent housing. OTDA further notes that explicitly requiring districts to provide such services to PA applicants or recipients that receive THA who are placed in hotel/motel facilities will be consistent with most districts' current practices and will benefit not only the individuals and families placed at hotel/motel facilities, but also the districts and community at large by helping such applicants or recipients find and maintain permanent housing.

There is no significant impact to small businesses because the proposed regulations establish reasonable minimum standards that only apply to those hotel/motel facilities that affirmatively choose to work with a district for placements for PA applicants or recipients that receive THA. Given all of the facts and circumstances, the proposed regulatory amendments minimize adverse impacts on districts and small businesses as much as possible.

7. Small business and local government participation:

OTDA has notified the districts of the proposed regulatory amendments, has shared drafts of proposed regulations with the districts and affected hotel/motel facility owners and operators, participated in multiple teleconferences with the districts, and solicited written comments from both the districts and affected hotel/motel facility owners and operators. Based on the comments received, and

at the request of the districts, OTDA modified the proposed regulations by: (1) merging district hotel/motel facility service plans and the hotel/motel operational plan into a single, streamlined district hotel/motel plan; (2) removing certain requirements that were duplicative of other State and local laws, regulations, and codes; (3) removing a provision that would have prohibited hotel/motel facilities from designating or setting aside specific rooms for PA applicants or recipients that receive THA; and (4) allowing for more than two people to be placed in larger rooms.

The districts and hotel/motel facility operators appreciated that OTDA addressed their concerns and anticipate that they are prepared to implement the proposed regulatory amendments.

7. For rules that either establish or modify a violation or penalties associated with a violation:

To the extent that a district is compliant with all of the proposed regulatory amendments, reimbursement is available to districts for reasonable and necessary costs related to providing THA to public assistance applicants and recipients in hotel/motel facilities. The proposed regulatory amendments would be consistent with Social Services Law § 20(3)(e), which already explicitly authorizes OTDA to “withhold or deny state reimbursement, in whole or in part, from or to any district or any city or town thereof, in the event of the failure of either of them to comply with law, rules or regulations of [OTDA] relating to public assistance and care or the administration thereof.”

Rural Area Flexibility Analysis

1. Types and estimate numbers of rural areas:

The proposed regulatory amendments would apply to the 44 rural social services districts (rural districts).

2. Reporting, recordkeeping and other compliance requirements; and professional services:

The proposed regulatory amendments would require each rural district that will be placing public assistance (PA) applicants or recipients that receive Temporary Housing Assistance (THA) in hotel/motel facilities and seeking reimbursement from State or State-administered grants or funds to submit a Social Services District hotel/motel facility service plan. A Social Services District hotel/motel facility service plan must include a list of the hotel/motel facilities used by the rural district and describe, among other things, the rural district's plan for providing case management services, assistance in applying for other public benefits, supportive social and mental health services, meal services, and health services to persons and families placed in hotel/motel facilities.

Rural districts would be required to inspect hotel/motel facilities before placing PA applicants or recipients that receive THA in those facilities, and at least every six months thereafter, or as otherwise determined by the Office of Temporary and Disability Assistance (OTDA), for so long as the rural district continues using the hotel/motel facilities. Rural districts would also be required to submit their

initial inspection reports to OTDA before using the facility to place PA applicants or recipients that receive THA. Subsequent inspection reports would have to be submitted to OTDA within 20 business days of those inspections. If a rural district does not use a hotel/motel facility to place recipients of THA for three consecutive months, the rural district would not be obligated to continue inspecting the hotel/motel facility; however, the rural district would be obligated to inspect the hotel/motel facility before resuming use of the hotel/motel facility.

In the event of a serious incident impacting upon the safety and well-being of a PA applicant or recipient that receives THA and who has been placed by a district in a hotel/motel facility, the owner or operator of the hotel/motel facility would be required to immediately report the incident to the rural district. The rural district would then be required to submit an incident report form to OTDA within three business days after receiving notice of the incident.

3. Costs:

The proposed regulatory amendments are not anticipated to result in significant additional costs for the State or rural districts, as most of the requirements set forth in the regulations are already being carried out under existing policies and procedures, including most inspections, reporting, and recordkeeping.

Accordingly, it is not anticipated that this proposed regulation will result in any significant impact upon property taxpayers in rural districts. While the additional costs to rural districts are anticipated to be minimal, a few of the smallest rural districts expressed concern regarding the need for additional staff and associated

funding to provide case management services under the proposed regulations. In the few rural districts that may not be providing services consistent with the requirements contained in the proposed regulations in hotel/motel facility placements, the anticipated costs should nonetheless be low and may be at least somewhat offset by reduced PA costs resulting from PA applicants or recipients moving into permanent housing sooner than would be expected in the absence of such services. For the limited number of districts that do not already provide case management services to individuals and families experiencing homelessness that are placed in hotel/motel facilities, costs are estimated to be less than \$120,000 annually. Furthermore, rural districts would have the ability to decide how services will be provided, which should mitigate the impact of the minimal costs. For example, rural districts would be able to provide case management services for THA recipients placed in hotel/motel facilities using the same staff and in conjunction with existing required case management services associated with helping individuals obtain employment. Moreover, the proposed regulations ensure that the same services are provided regardless of whether PA applicants or recipients are placed in shelters or hotel/motel facilities. One area of change that may reduce costs and burden on districts in the proposed regulations is related to inspections. Currently, districts are required to inspect the hotel/motel facilities used as placements at least once every six months and to send reports of their inspections to OTDA within 30 days of completion of the inspection. While the proposed regulatory amendments keep the six month inspection requirements for hotel/motel facilities that are being used for

placement, they may reduce administrative burdens for some districts by providing that hotel/motel facilities need not be continuously inspected if they are not used to place PA applicants or recipients that receive THA for three consecutive months. Additionally, the added responsibility in the proposed regulatory amendments of inspecting a hotel/motel facility before it is used for an initial placement is anticipated to be minimal as compared to the existing requirements (see 18 NYCRR § 352.3(h)).

As part of the proposed regulatory amendments, rural districts also would be required to conduct assessments and preliminary health screenings and provide case management services for placements in hotel/motel facilities, consistent with placements in shelter, and rural districts would be required to submit a plan to OTDA on how they will ensure that clients have access to needed services. It is expected that most rural districts are already providing services to clients that are placed in hotel/motel facilities. Districts can choose to provide services themselves, can link clients with services, or can engage with a not for profit to provide the services. This model gives flexibility to districts as to how services will be delivered, and it is expected that most districts are already providing services to clients that are placed in hotel/motel facilities. While the additional costs to districts is anticipated to be minimal, a few small rural districts expressed concern regarding the need for additional staff and associated funding.

4. Minimizing adverse impact:

OTDA considered multiple approaches to minimize adverse impact on rural districts in the development of this rule. An alternative approach that was rejected would have required districts to develop an operational plan for each hotel/motel facility that they intend to use. Instead, OTDA proposes a more streamlined requirement for districts to submit a list of hotel/motel facilities and basic information annually, and to submit a service plan only once and when the information therein changes, which will reduce the administrative burden on rural districts by decreasing the amount of information that would need to be submitted to OTDA and reduce the frequency of required plan updates. Another alternative to the proposed regulatory amendments would be to refrain from promulgating them. However, such inaction would diminish OTDA's ability to exercise needed oversight of hotel/motel facilities that the rural districts use to place PA applicants or recipients that receive THA and impair OTDA's ability to ensure that persons and families experiencing homelessness receive needed services. OTDA does not consider inaction a viable alternative to the proposed regulatory amendments. Given all of the facts and circumstances, the proposed regulations minimize adverse impact on rural districts to the extent possible without jeopardizing the safety of temporary housing residents or precluding services needed to expedite exits from temporary to permanent housing. OTDA notes that all PA applicants or recipients that receive THA, regardless of where they are placed, benefit from case management and supportive services which help such applicants or recipients find and maintain permanent housing, which would

greatly outweigh any minimal adverse impact. OTDA further notes that explicitly requiring rural districts to provide such services to PA applicants or recipients that receive THA who are placed in hotel/motel facilities will be consistent with most districts' current practices and will benefit not only the individuals and families placed at hotel/motel facilities, but also the rural districts and community at large by helping such applicants or recipients find and maintain permanent housing.

5. Rural area participation:

OTDA has notified the rural districts of the proposed rule making, has shared drafts of the proposed regulations with the rural districts and affected hotel/motel facility owners and operators, participated in multiple teleconferences with the rural districts, and solicited written comments from both the rural districts and affected hotel/motel facility owners and operators. Based on the comments received, and at the request of the districts (including the rural districts), OTDA modified the proposed regulations by: (1) merging district hotel/motel facility service plans and the hotel/motel operational plan into a single, streamlined district hotel/motel plan; (2) removing certain requirements that were duplicative of other State and local laws, regulations, and codes; (3) removing a provision that would have prohibited hotel/motel facilities from designating or setting aside specific rooms for PA applicants or recipients that receive THA; and (4) allowing for more than two people to be placed in larger rooms.

Districts, including rural districts, and hotel/motel facility operators expressed appreciation that OTDA addressed many of their concerns and many have indicated that they do not anticipate issues with implementing the proposed regulatory amendments.

Statement in lieu of a Job Impact Statement (JIS)

A JIS is not required for the proposed regulatory amendments. The purposes of the proposed regulatory amendments are to update and supplement current State regulations to: (1) set forth the responsibilities of social services districts (districts) with respect to hotel/motel facilities that are used to provide temporary emergency housing to persons and families experiencing homelessness; (2) update and clarify the standards applicable to these hotel/motel facilities; (3) require that public assistance (PA) applicants/recipients that receive Temporary Housing Assistance (THA) who are placed in hotel/motel facilities are provided with supportive services that are currently available to public assistance applicants or recipients that receive THA placed in shelters; and (4) clarify the Office of Temporary and Disability Assistance's oversight and enforcement authorities with respect to hotel/motel facilities used by districts to place THA recipients. In recognition of, and to accommodate the new Part 902, the rule would also make the following amendments: (1) amend 18 NYCRR § 352.3(e)(2) to remove the outdated maximum allowable cost for a refrigerator rental in a hotel/motel facility; (2) amend 18 NYCRR § 352.3(f) to remove the limitation on districts that they may not place a PA applicant or recipient that receives THA in a hotel/motel facility for longer than six months unless such district submits an annual determination to OTDA that housing other than hotel/motel facilities and certified shelters are not available, and outdated references to maximum daily shelter costs, currently set at \$16 per day for the first person and \$11 per day for each additional occupant in the room; (3) repeal 18 NYCRR §§ 352.3(g) and (h) which contains the extant standards and inspection requirements for hotel/motel facilities, as these would be replaced by new Part 902; (4)

repeal 18 NYCRR §§ 352.3(m) which contains outdated inspection requirements applicable to uncertified shelters, as these would no longer be necessary due to new Part 902; (5) amend 18 NYCRR 352.35(b)(3) to make conforming changes to the definition of “temporary housing,” to reflect changes made by Part 902; and (6) amend 18 NYCRR §§ 491.2(f) and 900.2(e) to clarify that the regulations relating to shelters for homeless persons and families experiencing homelessness set forth in Parts 491 and 900, respectively, do not apply to commercial hotel/motel facilities used as temporary placements, given that such placements would now be subject to new Part 902. Therefore, it is clear from the foregoing that the proposed regulatory amendments would not substantively affect the jobs of employees in the private sector or at the State or district level.

4. Purpose of the rule:

To ensure public assistance (PA) applicants or recipients that receive Temporary Housing Assistance (THA) for hotel/motel facility placements receive supportive services like those currently available to PA applicants or recipients that receive THA for shelter placements.

Summary of the Proposed Rule

The Office of Temporary and Disability Assistance (OTDA) proposes the following amendments to Title 18 of the New York Codes, Rules and Regulations (NYCRR) updating and supplementing current State regulations pertaining to hotel/motel facilities that social services districts (districts) use to place public assistance (PA) applicants or recipients that receive Temporary Housing Assistance (THA) when no other suitable public or private housing is available.

In sum, the proposed regulatory amendments would:

Adopt a new Part 902: (1) setting forth the responsibilities of districts with respect to hotel/motel facilities that are used to provide temporary emergency housing to persons and families experiencing homelessness; (2) updating and clarifying the standards applicable to these hotel/motel facilities; (3) requiring that PA applicants/recipients that receive THA who are placed in hotel/motel facilities are provided with supportive services that are currently available to public assistance applicants or recipients that receive THA placed in shelters; and (4) clarifying the Office of Temporary and Disability Assistance's oversight and enforcement authorities with respect to hotel/motel facilities used by districts to place THA recipients.

In recognition of, and to accommodate the new Part 902, the rule would also make the following amendments: (1) amend 18 NYCRR § 352.3(e)(2) to remove the outdated maximum allowable cost for a refrigerator rental in a hotel/motel facility; (2) amend 18 NYCRR § 352.3(f) to remove the limitation on districts that they may not place a PA applicant or recipient that receives THA in a hotel/motel facility for longer than six months unless such district submits an annual determination to OTDA that housing other than hotel/motel facilities and certified shelters are not available, and outdated references to maximum daily shelter costs, currently set at \$16 per day for the first person and \$11 per day for each additional occupant in the room; (3) repeal 18 NYCRR §§ 352.3(g) and (h) which contains the extant standards and inspection requirements for hotel/motel

facilities, as these would be replaced by new Part 902; (4) repeal 18 NYCRR §§ 352.3(m) which contains outdated inspection requirements applicable to uncertified shelters, as these would no longer be necessary due to new Part 902; (5) amend 18 NYCRR 352.35(b)(3) to make conforming changes to the definition of “temporary housing,” to reflect changes made by Part 902; and (6) amend 18 NYCRR §§ 491.2(f) and 900.2(e) to clarify that the regulations relating to shelters for homeless persons and families experiencing homelessness set forth in Parts 491 and 900, respectively, do not apply to commercial hotel/motel facilities used as temporary placements, given that such placements would now be subject to new Part 902.

More specifically, the proposed regulatory amendments would:

Amend § 352.3(e)(2) to remove the maximum allowable cost for a refrigerator rental in a hotel/motel facility, which currently may not exceed \$10 per week per room.

Amend § 352.3(f) to remove the limitation on districts that they may not place a PA applicant or recipient that receives THA in a hotel/motel facility for longer than six months unless such district submits an annual determination to OTDA that housing other than hotel/motel facilities and certified shelters are not available, and to also remove the maximum amount that districts can be reimbursed for hotel/motel facility costs.

Repeal § 352.3(g)–(h), which would be replaced by new Part 902.

Repeal § 352.3 (m), which would no longer be necessary due to new Part 902.

Amend 352.35(b)(3) to update the definition of the term “temporary housing” to add a reference to the new Part 902.4(a) regarding hotel/motel facility placements by districts.

Amend § 491.2(f) to clarify that the regulations relating to shelters for homeless persons and families experiencing homelessness set forth in Part 491 do not

apply to commercial hotel/motel facilities used as temporary placements, given that such placements would now be subject to new Part 902.

Amend § 900.2(e) to clarify that the regulations relating to shelters for homeless persons and families experiencing homelessness set forth in Part 900 do not apply to commercial hotel/motel facilities used as temporary placements, given that such placements would now be subject to new Part 902.

Add new Part 902 pertaining to hotel/motel facilities used as emergency placements for persons and families experiencing homelessness.

Add new § 902.1 defining the scope of new Part 902 to apply to hotel/motel facilities used by districts to provide temporary housing assistance to adults, adult families, or families with children who are in need of temporary housing.

Add new § 902.2 defining the terms “adult,” “adult family,” “family with children,” “hotel/motel facilities,” “minor child,” “the Office,” “pregnant person,” “temporary housing,” and “temporary housing assistance.”

Add new § 902.3 providing that a district must submit a district hotel/motel service plan approved by OTDA pursuant subdivision (a) of this section, and clarifying the required content of district hotel/motel service plans.

Add new § 902.4 clarifying: (1) that adults, adult families, and families with children who are PA applicants or recipients that receive THA, may be placed in hotel/motel facilities on a temporary emergency basis when there is no other appropriate temporary housing available; (2) that in referring families with children, primary consideration shall be given to the needs of the children, including specific factors including, but not limited to, educational needs, security, the nature of the facility in which the children would be placed, and factors which will help ensure the minimum disruption of community ties; (3) that the continued need for hotel/motel facility accommodations and the availability of other appropriate and suitable public or private housing in which to house each adult, adult family, and family with children that has been referred by a district to a

hotel/motel facility shall be reviewed, evaluated and authorized periodically, but not less than annually, by the district, which is consistent with inspection requirements in existing shelter regulations; and that the district shall be required to maintain records related to its periodic review, evaluation and authorization and to make them available to OTDA on request.

Add new § 902.5 clarifying: (1) the procedures for conducting assessments and preliminary health screenings for adults and families applying for THA; (2) the procedures for developing independent living plans for families with children admitted to a hotel/motel facility; (3) that a homeless individual or family that applies to a district for THA may be provided with emergency shelter on a temporary, interim basis while the assessment of eligibility to receive THA remains ongoing; (4) that each adult member of a family or single adult must cooperate in the completion of an assessment, that when an adult family member or single adult fails to cooperate in the completion of the assessment, the district must deny the family's or the single adult's application for THA unless non-compliance is due to a physical or mental impairment of the family member or single adult, and, in such cases, the district must refer the family member or single adult with the apparent physical or mental impairment for an evaluation by an appropriate professional; and (5) provides procedures for applicants to document and districts to seek evaluations of claimed impairments.

Add new § 902.6 clarifying the standards required of each hotel/motel facility used to provide THA to adults, adult families, or families with children, and providing that no adult, adult family, or family with children shall be placed in a hotel/motel facility unless all of the requirements set forth in this section are met.

Add new § 902.7 clarifying that individuals or families in receipt of THA in hotel/motel facilities shall be subject to certain rights and obligations, with such rights and obligations being similar to those set forth in regulations for shelters in Parts 491 and 900.

Add new § 902.8 clarifying that it is the responsibility of a district that places adults, adult families, or families with children in hotel/motel facilities on a temporary emergency basis to make provision to ensure that such individuals or families have the ability to obtain meals sufficient to meet their dietary needs.

Add new § 902.9 defining the term “serious incidents” and clarifying the reporting requirements for an owner or operator of a hotel/motel facility and districts in the event of serious injury or death of an PA applicant or recipient that receives THA who has been placed at that hotel/motel facility, or upon learning of any serious incident impacting the safety and well-being of a PA applicant or recipient that receives THA who has been placed at that hotel/motel facility.

Add new § 902.10 setting forth districts’ obligation to inspect hotel/motel facilities to confirm their compliance with this new Part 902, whether they are within or outside the district, before they are used to place PA applicants or recipients that receive THA and every six months thereafter or as determined by OTDA, and clarifying districts’ obligations with respect to such inspections and subsequent reporting and enforcement; affording OTDA the authority to inspect such hotel/motel facilities at any time; and requiring districts to cease and desist from using a hotel/motel facility to place PA applicants or recipients that receive THA where either the district, OTDA, or their respective staffs are denied access to units used to place applicants for or recipients of THA.

Add new § 902.11 clarifying that State reimbursement is available to districts that comply with this new Part 902 for reasonable and necessary costs related to providing THA to public assistance applicants and recipients in hotel/motel facilities, and to clarify that districts are subject to recordkeeping requirements related to such reimbursement.

Add new § 902.12 clarifying that, when it has knowledge that there are violations of law, regulation, or code at a hotel/motel facility, or that there are conditions that are dangerous, hazardous, imminently detrimental to life or health, or that otherwise render the hotel/motel facility – or particular rooms within the

hotel/motel facility – unfit for human habitation, OTDA is authorized to alert appropriate authorities, and may issue an order directing the district to take appropriate actions to confirm that any deficiencies, violations, or conditions are remediated, transfer PA applicants or recipients to unaffected rooms or another appropriate temporary emergency housing, and/or cease and desist from using the hotel/motel facility.

The full text of the proposed regulatory amendments are posted at the following OTDA website: <http://otda.ny.gov/legal/regulatory-activities.asp>.

Part 352 of Title 18 NYCRR is amended to read as follows:

Paragraph (2) of subdivision (e) of § 352.3 is amended to read as follows:

(2) Hotel/motel [accommodations] *facilities* without cooking facilities shall be utilized only when [accommodations] *hotel/motel facilities* with such *cooking* facilities are not available. An allowance for the actual cost of the rental of a refrigerator [, not to exceed \$10 per week per room,] shall be made when a homeless family is temporarily placed in a hotel/motel *facility* which does not have cooking facilities and which provides a refrigerator on a rental basis.

Subdivision (f) of § 352.3 is amended to read as follows:

(f) Reimbursement for shelter costs and restaurant allowances and rental fees for refrigerators as provided for in paragraph (e)(2) of this section is available to social services districts for expenditures made by such districts on behalf of recipients temporarily living in [hotels or motels] *hotel/motel facilities* for so long as the recipients are actively seeking permanent housing[, but in no event for a period in excess of six months unless the local commissioner of social services determines on an annual basis that housing other than hotels or motels or facilities regulated under Part 900 or Part 902 of this Title is not readily available in the social services district and the commissioner submits such determination to the department on an annual basis. Upon such a determination and submission, the social services district will continue to be reimbursed for shelter costs, restaurant allowances as appropriate and rental fees for refrigerators provided to public assistance recipients beyond such six-month period]. A recipient's continued need for hotel/motel accommodations must be reviewed and evaluated monthly. [The maximum reimbursable amount for shelter costs after August 1, 1984 is \$16 per day for the first person in each hotel room, and \$11 per day for the remaining occupants in each room.] Restaurant allowances, if necessary must be provided in accordance with department regulations.

Subdivisions (g) and (h) of § 352.3 are REPEALED and amended to read as follows:

(g) *Reserved*

(h) *Reserved*

Subdivision (m) of § 352.3 is REPEALED.

Paragraph (3) of subdivision (b) of § 352.35 is amended to read as follows:

(3) Temporary housing includes family shelters authorized by Part 900 of this Title and section 352.8(a) of this Part, room and board authorized by section 352.8(b) of this Part which is provided to a homeless person on a temporary basis, hotel/motel facilities authorized by section 352.3(e) of this Part and *section 902.4(a) of this Title*, and shelters for adults authorized by Part 491 of this Title.

Subdivision (f) of § 491.2 is amended to read as follows:

(f) A commercial hotel or motel used as temporary placement pursuant to [section 352.3(e)] *Part 902 of this Title by social services districts to provide temporary housing assistance to adults, adult families, or families with children who are in need of temporary housing*, shall not be considered a shelter for adults, a small-capacity shelter, or a shelter for adult families[, so long as such hotel or motel is not used primarily to provide shelter to recipients of temporary housing assistance].

Subdivision (e) of § 900.2 is amended to read as follows:

(e) A commercial hotel or motel used as temporary placement pursuant to [section 352.3(e)] *Part 902 of this Title by social services districts to provide temporary housing assistance to adults, adult families, or families with children who are in need of temporary housing* shall not be considered a shelter for families [, so long as such hotel or motel is not used primarily to provide shelter to recipients of temporary housing assistance].

A new Part 902 is added to Title 18 NYCRR to read as follows:

***PART 902 HOTELS AND MOTELS USED AS TEMPORARY HOUSING PLACEMENTS
FOR PERSONS AND FAMILIES EXPERIENCING HOMELESSNESS***

*(Statutory authority: Social Services Law, §§ 17[a]-[b] and [k], 20[2][b], 20[3][d]-[f],
34[3][c]-[f], 34[6])*

Sec.

902.1	<i>Applicability</i>
902.2	<i>Definitions</i>
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§ 902.1 Applicability.

This Part shall apply to hotel and motel facilities used by social services districts to provide temporary housing assistance to adults, adult families, or families with children who are in need of temporary housing.

§ 902.2 Definitions.

For purposes of this part

(a) Adult means an individual who is not a minor child.

(b) Adult family means:

(1) two adults who are legally married to one another, in a domestic partnership, or in another legally recognized relationship;

(2) two adults who can establish the medical dependence of one upon the other; or

(3) two or more adults who share a “caretaking” (emotionally or physically supportive) or financially interdependent relationship, and who have resided with one another for 180 days immediately prior to the date of their public assistance application for temporary housing assistance.

(c) Family with children means a pregnant person or two or more persons, at least one of whom is a minor child as defined in subdivision (e) of this section, or two persons, one of whom is a pregnant person as defined in subdivision (g) of this section, who:

(1) constitute a household in receipt of the Emergency Assistance to Families, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Assistance for Adults, Emergency Safety Net Assistance, Supplemental Security Income (SSI) programs, or additional State payments and any other persons related to a member of such household who are eligible for Emergency Assistance to Families, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Safety Net Assistance, SSI programs, or additional State payments; or

(2) although not currently in receipt of Emergency Assistance to Families, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Assistance for

Adults, Emergency Safety Net Assistance, SSI programs, or additional State payments, apply for such benefits and are found eligible for participation in such programs.

(d) Hotel/motel facilities are commercial establishments that provide temporary overnight accommodations in a room or rooms.

(e) Minor child means an individual who is not yet 18 years old, or who is between 18 and 19 and is a full-time student in a secondary school, or in the equivalent level of vocational or technical training.

(f) The Office means the New York State Office of Temporary and Disability Assistance.

(g) Pregnant person means a person, 18 years of age or older, who:

(1) has been diagnosed by a qualified medical professional as being pregnant;

(2) has no children currently residing with them; and

(3) is a recipient of Emergency Assistance to Families, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Assistance for Adults, SSI benefits, or additional State payments, or applies for such benefits and is found eligible to participate in such programs.

(h) Temporary housing includes family shelters authorized by Part 900 of this Title and section 352.8(a) of this Title, room and board authorized by section 352.8(b) of this Title that is provided to a homeless person on a temporary basis, hotel/motel facilities authorized by section 352.3(e) of this Title and section 902.4(a) of this Part, and shelters for adults authorized by Part 491 of this Title.

(i) Temporary housing assistance is a public assistance benefit provided temporarily for an eligible homeless individual or family to meet an immediate need for shelter pursuant to section 352.35 of this Title.

§ 902.3 Social Services District hotel/motel facility service plans.

(a) Social Services District hotel/motel facility service plans. A district hotel/motel facility service plan must be submitted by the social services district to the office for approval and must be updated and resubmitted to the office upon any change to the information contained therein. Social Services District hotel/motel facility service plans must provide the following information for adults, adult families, and families with children placed in hotel/motel facilities:

(1) a list of the hotel/motel facilities used by the social services district, which shall be updated annually, and indicate:

- (i) *the name and location of each hotel/motel facility;*
 - (ii) *the number of units at each identified hotel/motel facility potentially used to place public assistance applicants or recipients that receive temporary housing assistance;*
 - (iii) *the rate(s) paid for each hotel/motel room in which public assistance applicants or recipients that receive temporary housing assistance are placed;*
 - (iv) *the population served by each hotel/motel facility (adults, adult families and families with children);*
 - (v) *a description of the public transportation available to persons placed at each hotel/motel facility or reasonable walking distance;*
- (2) *a plan for providing case management services;*
- (3) *a plan for providing assistance in making an application for public benefits including, but not limited to, public assistance, Medical Assistance, Supplemental Nutrition Assistance Program benefits, Supplemental Security Income, or unemployment benefits;*
- (4) *a plan for assisting persons placed in hotel/motel facilities to secure necessary supportive social and mental health services including substance use disorder services;*
- (5) *a plan for providing social rehabilitation services including assistance in obtaining permanent housing; assistance in participating in employment assessments, job training, and job placement services, where appropriate;*
- (6) *a plan for providing linkage to health services to persons placed in hotel/motel facilities, including any arrangements with accredited medical institutions, clinics or providers for the referral for emergency treatment and care, and arrangements for providing linkage to prenatal care to pregnant persons;*
- (7) *a plan for providing access to childcare services, as necessary;*
- (8) *a plan for providing persons placed in hotel/motel facilities with meals (provided onsite, restaurant allowance, etc.); and*
- (9) *such other information as may be requested by the office.*

§ 902.4 Placements.

- (a) *Adults, adult families, and families with children who are public assistance applicants or recipients that receive temporary housing assistance may be placed in a hotel/motel facility on a temporary emergency basis when there is no other appropriate temporary housing available in which to house such individuals.*
- (b) *In referring families with children, primary consideration shall be given to the needs of the children. Specific factors considered must include but shall not be limited*

to educational needs, security, the nature of the hotel/motel facility in which the children would be placed, and efforts to minimize the disruption of community ties.

(c) The continued need for hotel/motel facilities and the availability of other appropriate and suitable public or private housing in which to house each adult, adult family, and family with children that has been referred by a social services district to a hotel/motel facility shall be reviewed, evaluated and authorized by the social services district on a periodic basis, at least once a year, and the social services district shall maintain records related to such review, evaluation and authorization and make them available to the office on request.

§ 902.5 Assessments.

(a) When an individual or family applies for temporary housing assistance, the social services district or the social services district's designee shall commence to evaluate the family or individual to assess the family's or individual's housing and housing-related public assistance and care needs pursuant to section 352.35 of this Title, and the suitability of the family or individual for placement in a shelter, or in a hotel/motel facility, by the end of the next business day. The assessment shall be completed by the social services district or its designee as soon as possible thereafter.

(b) Preliminary Health Screenings.

(1) Each individual or family placed in a hotel/motel facility must have a preliminary health screening at or before the time of intake, but in no case later than 24 hours after their placements. Such screening must be performed to ascertain an appropriate available temporary emergency housing placement for the individual or family.

(2) Notwithstanding paragraph (1) of this subdivision, a new preliminary health screening is not required when an individual or family moves from one temporary housing placement to another temporary housing placement while staying in the social services district's emergency housing system, if the original preliminary health screening is less than one year old.

(3) If determined necessary by the district, or requested by the individual or family, such individual or family should be referred by the social services district for physical examination, laboratory tests, inoculations and other treatment, as appropriate.

(c) *Families with children.*

(1) *Independent Living Plan.*

(i) *Within ten (10) days of admission of a family with children to a hotel/motel facility, the social services district and/or the social services district's designee, with the cooperation of each adult member of the family, must develop an independent living plan to the extent required by section 352.35 of this Title.*

(ii) *The independent living plan must be reviewed with the family at least once every two weeks and such plan must be revised as necessary to assist the family in obtaining permanent housing. The family shall have access to its independent living plan and case file.*

(iii) *The social services district or designee must document the independent living plan and all direct services and service referrals to other entities provided while the family is in the hotel/motel facility.*

(d) *homeless family or single adult that applies to a social services district for public assistance may be provided with emergency shelter on a temporary, interim basis, while the assessment of eligibility to receive temporary housing assistance remains ongoing, using a predetermination grant of assistance as outlined in section 351.8(c)(4) of this Title.*

(e) *Each adult member of a family or single adult must cooperate in the completion of an assessment. When an adult family member or single adult fails to cooperate in the completion of the assessment, the social services district must deny the family's or the single adult's application for temporary housing assistance unless non-compliance is due to a physical or mental impairment of the family member or single adult. When such a physical or mental impairment appears to be present and interfering with a family member's or single adult's ability to cooperate in and complete an assessment, the social services district must refer the family member or single adult with the apparent physical or mental impairment for an evaluation by an appropriate professional. When the family member or single adult states that they have a physical or mental impairment that interferes with their compliance, they must provide documentation of this impairment unless the physical or mental impairment is known or apparent to shelter or intake staff, in which case the family member or single adult shall not be required to provide documentation of the physical or mental impairment. If they do not have such documentation and cannot obtain it with or without the assistance of the social services district, the social services district may refer the individual to an appropriate qualified professional for an evaluation and/or for such documentation. The social services district also may refer the individual to an appropriate qualified professional for an independent medical examination if the social services district believes additional information is necessary to confirm that the individual has a physical or mental impairment that is interfering with their ability to cooperate in and complete an assessment.*

§ 902.6 Hotel/motel facility standards.

- (a) No adult, adult family, or family with children shall be placed in a hotel/motel facility unless all of the requirements set forth in this section are met.*
- (b) Each hotel/motel facility used to provide temporary housing assistance to adults, adult families, or families with children must be:*
 - (1) in a good state of repair and sanitation, and each hotel/motel room used for that purpose must be clean, sanitary, and free of insects, rodents and trash;*
 - (2) cleaned at least weekly by hotel/motel facility staff; and*
 - (3) equipped with furniture necessary for daily living, including but not limited to bureaus, chairs, and a bed or beds.*
- (c) Sleeping rooms for adults and adult families that have two or more individuals shall have a minimum of 60 square feet per adult.*
- (d) When children are placed in the same room or unit as adults, there shall be sufficient beds so children do not have to share beds with the adults.*
- (e) Each family with a child under the age of two referred to a hotel/motel facility by a social services district must be provided by the social services district with a Safe Sleep Brochure containing crib safety information published by the State Department of Health.*
- (f) Each room or unit used to place families with a child under the age of two shall be equipped with a suitable crib compliant with all Federal and State safety standards, and infant safe sleep signage available from the State Department of Health, shall be displayed prominently in each sleeping area in which a crib/pack and play is placed for a child under the age of two within the household. If the hotel/motel facility does not provide cribs or pack and plays, the social services district must provide them.*
- (g) All mattresses and bedding material shall be clean. Each bed shall have at least two clean sheets, adequate clean blankets, clean pillows and pillowcases. A complete change of linens shall be made by hotel/motel facility staff at least once a week, and more often where individual circumstances warrant or when a new individual or family occupies the unit. Each unit shall be supplied with towels, soap and toilet tissues. A clean towel shall be provided to each household member at least weekly or more often where individual circumstances warrant. Soap and toilet tissues shall be provided as necessary.*

(h) *Each room or unit must have operational door and window locks. For each room or unit used to place families with children, windows at and above the second floor must have window guards in place unless the HVAC system is vented directly to the exterior of the unit and windows are sealed closed.*

(i) *A heating system shall be permanently installed and operated in accordance with any applicable State or local law or regulation, such as the New York State Uniform Fire Prevention and Building Code.*

(j) *Each family with children must have a private bathroom. At a minimum, the bathroom must include a functioning toilet, as well as a sink and a shower or bathtub. Each bathroom fixture must be properly maintained with hot and cold running water as mandated by any applicable State or local law or regulation, such as the New York State Uniform Fire Prevention and Building Code. Single adults and adult families may be placed in rooms with common bathroom facilities, provided such facilities comply with any applicable State or local law or regulation, such as the New York State Uniform Fire Prevention and Building Code.*

(k) *Each sleeping area will contain a working smoke alarm. Each sleeping area will contain a working carbon monoxide detector/alarm as required by any applicable State or local law or regulation, such as the New York State Uniform Fire Prevention and Building Code. Each hotel/motel facility must maintain its fire/smoke/carbon monoxide alarms in accordance with any applicable State or local law or regulation, such as the New York State Uniform Fire Prevention and Building Code.*

§ 902.7 Rights and obligations.

Public assistance applicants or recipients that receive temporary housing assistance in hotel/motel facility placements shall be subject to the following rights and obligations:

(a) *Upon placement, or as soon as practicable after placement, to a hotel/motel facility for public assistance applicants or recipients that receive temporary housing assistance, such individual or family must be provided with a copy of the hotel/motel facility rules setting forth their rights and responsibilities while placed in the hotel/motel facility, and must be advised in writing of the consequences of failing to comply with the rules of the hotel/motel facility including discharge, and in certain circumstances discontinuance of temporary housing assistance.*

(b) *Public assistance applicants or recipients that receive temporary housing assistance rights. At a minimum, the social services district or their designee shall afford each public assistance applicant or recipient that receives temporary housing assistance the following rights, which will be set forth in the rules:*

(1) *the right to leave and return to the hotel/motel facility and grounds at reasonable hours in accordance with the rules of the hotel/motel facility;*

- (2) *that their civil rights shall not be infringed;*
- (3) *that their religious liberties shall not be infringed;*
- (4) *the right to have private written and verbal communications including the right to meet with legal representatives, legal counsel, medical providers, social workers, and any other service providers or persons authorized by the social services district. Any requirements as to prior notice and hours of access shall be set forth in the rules;*
- (5) *the right to receive and send mail or any other correspondence without interception or interference, except that incoming mail may be scanned and x-rayed to ensure that it does not contain contraband that could pose a threat to the security of the hotel/motel facility or to the health and safety of public assistance applicants or recipients that receive temporary housing assistance or staff;*
- (6) *the right to join with other individuals or families in receipt of temporary housing assistance or individuals to work for improvements in care;*
- (7) *the right to present grievances on one's own behalf, or on behalf of other individuals or families in receipt of temporary housing assistance, to the operator or operator's designee, to the social services district, and/or the office, without fear of reprisal;*
- (8) *the right to manage one's own financial affairs;*
- (9) *the right to confidential treatment of personal, social, financial and medical records;*
- (10) *the right to receive courteous, fair and respectful care and treatment;*
- (11) *the right to be free from restraint or confinement and shall not be locked in a room at any time;*
- (12) *the right to privacy in caring for personal needs;*
- (13) *the right to have their version of the events leading to an accident or incident in which they are involved included on all accident or incident reports;*
- (14) *the right to not be obliged to perform work by coercion or threat;*
- (15) *the right not to be permitted, or obliged, to provide any operator or agent of the operator any gratuity in any form for services provided or arranged for in accord with law or regulation; and*

(16) public assistance applicants or recipients that receive temporary housing assistance shall have the right to request that a hotel/motel facilities operator or social services district make reasonable accommodations for any physical or mental disability that substantially limits one or more major life activities.

(c) Rules.

The rules must inform public assistance applicants or recipients that receive temporary housing assistance of the obligations upon which their continued placement in the hotel/motel facility depends and the sanctions for noncompliance. At a minimum, rules concerning the following obligations must be set forth in the rules:

(1) applying for Emergency Assistance to Families, Family Assistance, Safety Net Assistance, Emergency Safety Net Assistance, Veteran Assistance, Emergency Assistance for Adults, SSI, or additional State payments, whichever is applicable, to the extent that the public assistance applicants or recipients that receive temporary housing assistance are eligible to receive such benefits pursuant to section 349.3 of this Title;

(2) developing, carrying out and completing a service or independent living plan with social services district or their designee's staff to achieve permanent housing and reviewing such plan with the social services district or their designee's staff at least once every two weeks;

(3) complying with any responsibilities, conditions or requirements set forth in the public assistance applicants or recipients that receive temporary housing assistance's independent living plan, where applicable;

(4) seeking and accepting permanent housing;

(5) seeking and accepting employment;

(6) using communal areas appropriately;

(7) notifying social services district or their designee's staff of any confirmed or suspected communicable illnesses, reportable to the State Department of Health;

(8) cooperating with the social services district or their designee's staff in an assessment of the family's housing and housing-related public assistance and care needs;

(9) refraining from engaging in acts which endanger the health and safety of oneself or others, or which substantially interfere with the orderly operation of the hotel/motel facility;

(10) complying with all public assistance requirements that apply to the public assistance applicants or recipients that receive temporary housing assistance; and

(11) paying to the hotel/motel facility or the social services district the public assistance applicants or recipients that receive temporary housing assistance's share of the cost of temporary housing in the amount determined by the social services district.

(d) Each public assistance applicant or recipient that receives temporary housing assistance shall have the responsibility to obey the rules of the hotel/motel facility and to respect the personal rights and private property of the other public assistance applicants or recipients that receive temporary housing assistance.

§ 902.8 Meals.

(a) A social services district that places adults, adult families, or families with children in hotel/motel facilities on a temporary emergency basis must make provision to ensure that such individuals or families have the ability to obtain meals sufficient to meet their dietary needs.

§ 902.9 Serious incidents and incident reporting.

(a) In the event of a serious injury or death of a public assistance applicant or recipient that receives temporary housing assistance who has been placed by a social services district in a hotel/motel facility, the owner or operator of the hotel/motel facility must:

(1) immediately notify the appropriate local authorities to obtain necessary assistance and services; and

(2) immediately notify the social services district.

(b) Should the owner or operator of a hotel/motel facility become aware of any serious incident impacting upon the safety and well-being of a public assistance applicant or recipient that receives temporary housing assistance who has been placed at that hotel/motel facility by a social services district, the owner or operator must immediately alert such district. For purposes of this section, "serious incidents" include, but are not limited to, deaths by natural or unnatural causes, suicides, life-threatening injuries including drug overdoses, assaults, rapes, sexual assaults, attempted rapes, attempted sexual assaults, arrests, acts of domestic violence that result in injury, or criminal activity.

(c) Upon learning of any serious incident impacting upon the safety and well-being of a public assistance applicant or recipient that receives temporary housing assistance who has been placed at a hotel/motel facility, the social services district shall immediately alert the office and submit a copy of the office-prescribed Incident Report form to the office within three business days.

§ 902.10 Inspection.

(a) Social services districts must inspect each hotel/motel facility, whether the hotel/motel facility is within the social services district or outside the social services district before the hotel/motel facility is used to place public assistance applicants or recipients that receive temporary housing assistance, to confirm that the hotel/motel facility is in compliance with the requirements set forth in this Part. The inspection report must be sent to the office prior to placing public assistance applicants or recipients that receive temporary housing assistance at the hotel/motel facility.

(b) Notwithstanding subdivision (a) of this section, a social services district may place public assistance applicants or recipients that receive temporary housing assistance on an emergency basis in a hotel/motel facility that has not been inspected by the social services district. When a social services district places public assistance applicants or recipients that receive temporary housing assistance at a hotel/motel facility that it has not inspected, the social services district must:

- (1) alert the office on the next business day;*
- (2) inspect the hotel/motel facility within two business days of the placement;*
and
- (3) provide a copy of the inspection report to the office within three business days of the inspection.*

(c) Social services districts thereafter must inspect each hotel/motel facility, whether the hotel/motel facility is within the social services district or outside the social services district, that they use to place public assistance applicants or recipients that receive temporary housing assistance at least once every six months or as determined by the office to verify that the hotel/motel facilities continue to meet the requirements set forth in this Part.

(d) A written report shall be made of each such inspection and shall be maintained at the office of the social services district, together with such other information as the social services district may maintain concerning the individuals and families placed in such hotel/motel facilities. A copy of each inspection report shall be provided to the office within 20 business days of the inspection.

(e) *If a social services district does not use a hotel/motel facility to place any public assistance applicant or recipient that receives temporary housing assistance for three consecutive months, the social services district is not obligated to continue inspecting the hotel/motel facility. However, the social services district must inspect the hotel/motel facility before resuming use of such hotel/motel facility to place public assistance applicants or recipients that receive temporary housing assistance and shall inspect the hotel/motel facility at least once every six months thereafter.*

(f) *If a social services district finds that a hotel/motel facility used to place public assistance applicants or recipients that receive temporary housing assistance, or an individual hotel/motel room is not in compliance with the requirements set forth in this Part, the social services district must direct the hotel/motel facility to correct the violation(s) within 30 days or less. If the violation is determined to be dangerous, hazardous, imminently detrimental to life or health, or otherwise renders the hotel/motel facility or an individual hotel/motel room not fit for human habitation, the social services district must immediately cease placing individuals at the hotel/motel facility or relocate any persons who had been placed at the hotel/motel facility to another appropriate room in the hotel/motel facility or to other appropriate housing. If the hotel/motel facility refuses to correct any cited violations, the social services district must cease placing individuals at the hotel/motel facility and relocate any clients that had been placed in the hotel/motel facility. Social services districts must immediately inform the office in writing whenever they cease placing individuals at a particular hotel/motel facility or relocate any persons who had been placed at the hotel/motel facility to another appropriate room or other appropriate housing for any of the reasons set forth in this subdivision.*

(g) *The office may inspect any hotel/motel facility used by a social services district to place public assistance applicants or recipients that receive temporary housing assistance, at any time, irrespective of whether during regular business hours or at night or on weekends.*

(h) *A social services district will cease and desist from using any hotel/motel facility where either the social services district, the office, or their respective staffs are denied access to units used to place public assistance applicants or recipients that receive temporary housing assistance.*

§ 902.11 Reimbursement.

To the extent that a social services district is compliant with all requirements of this Part, State reimbursement is available for social services district payments for reasonable and necessary costs related to providing temporary housing assistance to public assistance applicants and recipients in hotel/motel facilities. A social services district may claim and receive reimbursement from the office for allowable costs associated with such applicants and recipients under the Family Assistance, Emergency Assistance for Families, Safety Net Assistance, Emergency Safety Net Assistance, or Emergency Assistance for Adults programs, as applicable. In addition, social services districts are subject to the recordkeeping requirements contained in Part 600 of this Title

with respect to all temporary housing assistance to public assistance applicants and recipients in hotel/motel facilities for which reimbursement is claimed.

§ 902.12 Enforcement.

Whenever the office has knowledge, acquired by announced or unannounced inspections, audits, or other methods, or has been advised by a social services district or any other State or local entity authorized to conduct inspections or audits, that there exists a violation of law, regulation, or code at a hotel/motel facility used to place public assistance applicants or recipients that receive temporary housing assistance, wherein there are conditions that are dangerous, hazardous, imminently detrimental to life or health, or otherwise render the hotel/motel facility, or particular rooms within the hotel/motel facility, as unfit for human habitation, the office may alert the appropriate authorities including but not limited to the New York State Department of Health, and may issue an order directing the social services district to:

- (1) confirm that any deficiencies, violations, or conditions are remediated;*
- (2) transfer public assistance applicants or recipients that receive temporary housing assistance who have been referred to the hotel/motel facility to unaffected rooms within the same hotel/motel facility, or to another appropriate temporary emergency housing; and/or*
- (3) cease and desist from using the hotel/motel facility to place public assistance applicants or recipients that receive temporary housing assistance.*

Regulatory Impact Statement

1. Statutory authority:

Social Services Law (SSL) § 17(a)-(b) and (k) provide, in part, that the Commissioner of the Office of Temporary and Disability Assistance (OTDA) shall “determine the policies and principles upon which public assistance, services and care shall be provided within the state both by the state itself and by the local governmental units ...,” shall “make known his policies and principles to local social services officials and to public and private institutions and welfare agencies subject to his regulatory and advisory powers ...,” and shall “exercise such other powers and perform such other duties as may be imposed by law.”

SSL § 20(2)(b) provides, in part, that OTDA shall “supervise all social services work, as the same may be administered by any local unit of government and the social services officials thereof within the state, advise them in the performance of their official duties and regulate the financial assistance granted by the state in connection with said work.” Pursuant to SSL § 20(3)(d)-(f), OTDA is authorized to promulgate rules, regulations, and policies to fulfill its powers and duties under the SSL and “to withhold or deny state reimbursement, in whole or in part, from or to any social services district or any city or town thereof, in the event of their failure to comply with law, rules or regulations of [OTDA] relating to public assistance and care or the administration thereof.”

SSL § 34(3)(c) requires OTDA’s Commissioner to “take cognizance of the interests of health and welfare of the inhabitants of the state who lack or are threatened with the deprivation of the necessities of life and of all matters pertaining thereto.” Pursuant to SSL § 34(3)(d), OTDA’s Commissioner must exercise general supervision over the work of all social services districts (districts). SSL § 34(3)(e) provides that OTDA’s Commissioner must enforce the SSL and the State regulations within the State and in the districts. Pursuant to SSL § 34(3)(f), OTDA’s Commissioner must establish regulations for the administration of public

assistance and care within the State by the districts and by the State itself, in accordance with the law.

Pursuant to SSL § 34(6), OTDA's Commissioner "may exercise such additional powers and duties as may be required for the effective administration of the department and of the state system of public aid and assistance."

2. Legislative objectives:

OTDA understands that it was the intent of the Legislature in enacting the aforementioned statutes that OTDA establish rules, regulations, and policies to provide for the health, safety and general welfare of adults and families experiencing homelessness.

3. Needs and benefits:

There is presently not an explicit regulatory requirement that public assistance (PA) applicants or recipients that receive Temporary Housing Assistance (THA) who are placed at hotel/motel facilities receive case management and supportive services (nonetheless, most districts provide such services in hotel/motel facilities). The proposed regulations would provide consistency across the districts by requiring PA applicants or recipients that receive THA who are placed in hotel/motel facilities, receive case management and supportive services, which may include social, health, or mental health services, as well as childcare, employment assistance, and assistance in applying for other public benefits. OTDA notes that all PA applicants or recipients that receive THA, regardless of where they are placed, benefit from case management and supportive services which help such applicants or recipients find and maintain permanent housing. OTDA further notes that explicitly requiring districts to provide such services to PA applicants or recipients that receive THA who are placed in hotel/motel facilities will be consistent with most districts' current practices and will benefit not only the individuals and families placed at hotel/motel facilities, but also the

districts and community at large by helping such applicants or recipients find and maintain permanent housing.

Furthermore, any minimal costs incurred by the proposed regulations as outlined below are outweighed by the benefits of: (1) creating parity between shelter placements and hotel/motel placements in terms of services, rights, and obligations; (2) providing a regulatory framework for oversight of hotel/motel facilities instead of relying on a patchwork of regulations and district policies; and (3) allowing districts to have more than two people in large rooms, thus increasing capacity to assist homeless PA applicants or recipients that receive THA.

4. Costs:

The proposed regulatory amendments are not anticipated to result in significant additional costs for the State or districts, as most of the requirements set forth in the proposed regulations are already being carried out under existing policies and procedures, including most inspections, reporting, and recordkeeping. Accordingly, it is not anticipated that this regulation will result in any significant impact upon property taxpayers. While the additional costs to districts is anticipated to be minimal, a few small rural districts expressed concern regarding the need for additional staff and associated funding to provide case management supports under the proposed regulations. In the few rural districts that may not be providing services consistent with the requirements contained in the proposed regulations in hotel/motel facility placements, the anticipated costs should nonetheless be low and may be at least somewhat offset by reduced PA costs resulting from PA applicants or recipients moving into permanent housing sooner than would be expected in the absence of such services. For the limited number of districts that do not already provide case management services to individuals and families experiencing homelessness that are placed in hotel/motel facilities, costs are estimated to be less than \$120,000 annually. Furthermore, districts

would have the ability to decide how services will be provided, which should mitigate the impact of the minimal costs. For example, districts would be able to provide case management services for THA recipients placed in hotel/motel facilities using the same staff and in conjunction with existing required case management services associated with helping individuals obtain employment.

Moreover, the proposed regulations ensure that the same services are provided regardless of whether PA applicants or recipients are placed in shelters or hotel/motel facilities. One area of change that may reduce costs and burden on districts in the proposed regulations is related to inspections. Currently, districts are required to inspect the hotel/motel facilities used as placements at least once every six months and to send reports of their inspections to OTDA within 30 days of completion of the inspection. While the proposed regulatory amendments keep the six month inspection requirements for hotel/motel facilities that are being used for placement, they may reduce administrative burdens for some districts by providing that hotel/motel facilities need not be continuously inspected if they are not used to place PA applicants or recipients that receive THA for three consecutive months. Additionally, the added responsibility in the proposed regulatory amendments of inspecting a hotel/motel facility before it is used for an initial placement is anticipated to be minimal as compared to the existing requirements (see 18 NYCRR § 352.3(h)).

As part of the proposed regulatory amendments, districts are also required to conduct assessments and preliminary health screenings for placements in hotel/motel facilities and provide ongoing case management services for temporary housing residents to support shelter exit, consistent with placements in shelter, and districts would be required to submit a plan to OTDA on how they will ensure that clients have access to needed services. It is expected that most districts are already providing services to clients that are placed in hotel/motel facilities. While districts could incur some additional administrative costs associated with preparing their district hotel/motel service plans, those costs are

expected to be minimal. While the additional costs to districts are anticipated to be minimal, a few small rural districts expressed concerns regarding the need for additional staff and associated funding to provide case management supports under the proposed regulations.

5. Local government mandates:

The proposed regulatory amendments would require each district that will be placing PA applicants or recipients that receive THA in hotel/motel facilities to submit a Social Services District hotel/motel facility service plan for hotel/motel facilities that the district will use to place PA applicants/recipients and for which the district will seek reimbursement or make payments to or from State or State-administered grants or funds. As noted above, Social Services District hotel/motel facility service plans must describe, among other things, the district's plan for providing case management services, assistance with applying for other public benefits, supportive social and mental health services, meal services, and health services to persons and families placed in hotel/motel facilities.

Adoption of the proposed regulatory amendments would continue the requirement for districts to inspect hotel/motel facilities before using those facilities to place PA applicants or recipients that receive THA, and at least once every six months thereafter. Districts would also be required to submit an initial inspection report to OTDA for a hotel/motel facility before the district begins placing PA applicants/recipients there, and within 20 business days of each subsequent inspection of the hotel/motel facility.

Districts would also be required to report serious incidents involving PA applicants/recipients placed in hotel/motel facilities. Districts also would be required to direct the hotel/motel facility to correct violation(s) of applicable regulatory requirements within 30 days. If the violation is dangerous, hazardous, imminently detrimental to life or health, or renders the facility or room not fit for human habitation, the district would be required to immediately cease placing

individuals at the hotel/motel facility or to relocate any persons who had been placed at the facility, either to other appropriate housing or to another appropriate room in the facility. Where a hotel/motel facility refuses to correct cited violations, the district would be mandated to cease placing individuals at the hotel/motel facility and to relocate any clients that had been placed in the hotel/motel facility. Districts would be required to immediately inform the OTDA in writing whenever they cease placing individuals at a particular hotel or motel or relocate any persons who had been placed at the hotel/motel facility to another appropriate room or other appropriate housing for any of the reasons set forth in the applicable provisions of the proposed regulatory amendments.

6. Paperwork:

The paperwork requirements of the proposed regulatory amendments are discussed in § 5, above.

7. Duplication:

The proposed regulatory amendments would not duplicate, overlap, or conflict with any existing State or federal rules or regulations as they would repeal and replace any overlapping State regulations regarding hotel/motel placements.

8. Alternatives:

A possible alternative to the proposed regulatory amendments would be to refrain from promulgating them. However, such inaction would diminish OTDA's ability to exercise needed oversight of hotel/motel facilities that the districts use to place PA applicants or recipients that receive THA. The current State regulation pertaining to hotel/motel facility placements is outdated and fails to provide necessary guidance to districts as to their responsibilities vis-à-vis the hotel/motel facilities used by them to place PA applicants or recipients that receive THA. Insofar as such inaction could impair OTDA's ability to provide needed services and safeguards to persons and families experiencing

homelessness who are placed in hotel/motel facilities, and would deprive districts of necessary clarification and guidance, OTDA does not consider inaction a viable alternative to the proposed regulatory amendments.

9. Federal standards:

The proposed regulatory amendments would not conflict with federal statutes, regulations or policies.

10. Compliance schedule:

Districts that place PA applicants/recipients that receive THA in hotel/motel facilities would be required to immediately comply upon the adoption of the proposed regulations. OTDA plans to issue administrative guidance to districts prior to the adoption of the proposed regulatory amendments. The administrative guidance would include, among other information, details regarding the manner and form to submit district hotel/motel service plans and serious incident reports.

Regulatory Flexibility Analysis for Small Businesses and Local Governments

1. Effect of rule:

The proposed regulatory amendments would apply to all 58 social services districts (districts) in the State, as well as to the operators of hotel/motel facilities that are used by districts to place public assistance (PA) applicants or recipients that receive Temporary Housing Assistance (THA) when no other suitable public or private housing is available. The proposed regulations require that PA applicants or recipients that receive THA who are placed in hotel/motel facilities would receive case management and supportive services, which may include social, health, or mental health services, as well as childcare, employment assistance, and assistance in applying for other public benefits.

2. Compliance requirement:

The proposed regulatory amendments would clarify the responsibilities of districts with respect to hotel/motel facilities used by districts to place PA applicants or recipients that receive THA.

The proposed regulatory amendments would require each district that places PA applicants or recipients that receive THA in hotel/motel facilities to submit to the Office of Temporary and Disability Assistance (OTDA) for approval a Social Services District hotel/motel facility service plan. Such plans must include a list of the hotel/motel facilities used by the district and describe, among other things, the district's plan for providing case management services, assistance in applying for other public benefits, obtaining supportive social and mental health services, meal services, and health services to persons and families placed in hotel/motel facilities.

Districts would be required to inspect hotel/motel facilities before placing PA applicants or recipients that receive THA in those facilities, and at least every six months thereafter, or as otherwise determined by OTDA, for so long as the district continues using the hotel/motel facilities. Districts would also be required to submit their initial inspection reports to OTDA before using the facility to place PA applicants or recipients that receive THA; subsequent inspection reports would have to be submitted to OTDA within 20 business days of those inspections. If a district does not use a hotel/motel facility to place PA applicants or recipients that receive THA for three consecutive months, the district would not be obligated to continue inspecting the hotel/motel facility; however, the district would be obligated to inspect the hotel/motel facility before resuming use of the hotel/motel facility.

When a hotel/motel facility or an individual hotel/motel facility room are not in compliance with the applicable regulatory requirements, the district would be required to direct the hotel/motel facility to correct the violation(s) within 30 days. If the violation is one that is dangerous, hazardous, imminently detrimental to life or health, or renders the facility or room not fit for human habitation, the district would be required to immediately cease placing individuals at the hotel/motel facility or relocate any persons who had been placed at the hotel/motel facility either to other appropriate housing or to another appropriate room in the hotel/motel facility. Where a hotel/motel facility refuses to correct cited violations, the district would be required to cease placing individuals at the hotel/motel facility and relocate any clients that had been placed in the facility. Districts would also be required to inform OTDA in writing immediately whenever they cease placing individuals at a particular hotel/motel facility or they relocate any persons who originally had been placed at the hotel/motel facility to another appropriate room or other appropriate housing as a result of a violation.

Under the proposed regulatory amendments, both hotel/motel facility owners or operators and districts would be required to report serious incidents impacting upon the safety and well-being of PA applicants or recipients that receive THA who are placed at the hotel/motel facility. In short, the owner or operator would be obligated to immediately report the incident to the district, which, upon learning of the incident, would be required to immediately notify OTDA of such incident, and to submit a written incident report to OTDA within three business days.

3. Professional services:

The need for additional professional services should be limited. Districts should already possess the necessary expertise to prepare district hotel/motel service plans without the need for securing professional services. The required services parallel shelter services requirements that already apply to all districts, and many districts are already applying these services in hotel/motel facilities used to place PA applicants or recipients that receive THA. Nor must districts have particularized expertise to comply with hotel/motel facility inspection requirements set forth in the proposed regulatory amendments.

4. Compliance costs:

The proposed regulatory amendments are not anticipated to result in significant additional costs for the State or districts, as most of the requirements set forth in the regulations are already being carried out under existing policies and procedures, including most inspections, reporting, and recordkeeping. Accordingly, it is not anticipated that this proposed regulation will result in any significant impact upon property taxpayers. While the additional costs to districts are anticipated to be minimal, a few small rural districts expressed concern regarding the need for additional staff and associated funding to provide case management supports under the proposed regulations. In the few rural districts that may not be providing services consistent with the requirements contained in the proposed

regulations in hotel/motel facility placements, the anticipated costs should nonetheless be low and may be at least somewhat offset by reduced PA costs resulting from PA applicants or recipients moving into permanent housing sooner than would be expected in the absence of such services. For the limited number of districts that do not already provide case management services to individuals and families experiencing homelessness that are placed in hotel/motel facilities, costs are estimated to be less than \$120,000 annually. Furthermore, districts would have the ability to decide how services will be provided, which should mitigate the impact of the minimal costs. For example, districts would be able to provide case management services for THA recipients placed in hotel/motel facilities using the same staff and in conjunction with existing required case management services associated with helping individuals obtain employment. Moreover, the proposed regulations ensure that the same services are provided regardless of whether PA applicants or recipients are placed in shelters or hotel/motel facilities. One area of change that may reduce costs and burden on districts in the proposed regulations is related to inspections. Currently, districts are required to inspect the hotel/motel facilities used as placements at least once every six months and to send reports of their inspections to OTDA within 30 days of completion of the inspection. While the proposed regulatory amendments keep the six month inspection requirements for hotel/motel facilities that are being used for placement, they may reduce administrative burdens for some districts by providing that hotel/motel facilities need not be continuously inspected if they are not used to place PA applicants or recipients that receive THA for three consecutive months. Additionally, the added responsibility in the proposed regulatory amendments of inspecting a hotel/motel facility before it is used for an initial placement is anticipated to be minimal as compared to the existing requirements (see 18 NYCRR § 352.3(h)).

As part of the proposed regulatory changes, districts would also be required to conduct assessments and preliminary health screenings and provide case

management services for placements in hotel/motel facilities consistent with placements in shelter, and districts would be required to submit a plan to OTDA on how they will ensure that clients have access to needed services. It is expected that most districts are already providing services to clients that are placed in hotel/motel facilities. Districts can choose to provide services themselves, can link clients with services, or can engage with a not for profit to provide the services. This model gives flexibility to districts as to how services will be delivered.

5. Economic and technological feasibility:

Districts already have the economic and technological abilities to comply with the proposed regulatory amendments, which parallel shelter requirements in many respects and frequently reflect current practices and procedures in hotel/motel facilities.

6. Minimizing adverse impact:

OTDA considered multiple approaches to minimize adverse impacts on districts in the development of these regulations. An alternative approach that was rejected would have required districts to develop an operational plan for each hotel/motel facility that they intend to use. Instead, OTDA proposes a more streamlined requirement for districts to submit a list of hotel/motel facilities and basic information annually, and to submit a service plan only once and when the information therein changes, which will reduce the administrative burden on districts by decreasing the amount of information that would need to be submitted to OTDA and reducing the frequency of required plan updates. Another alternative to the proposed regulatory amendments would be to refrain from promulgating them. However, such inaction would diminish OTDA's ability to exercise needed oversight of hotel/motel facilities that the districts use to place PA applicants or recipients that receive THA and impair OTDA's ability to ensure

that persons and families experiencing homelessness receive needed services. OTDA does not consider inaction a viable alternative to the proposed regulatory amendments. Given all of the facts and circumstances, the proposed regulations minimize adverse impact to local governments to the extent possible without jeopardizing the safety of temporary housing residents or precluding services needed to expedite exits from temporary to permanent housing. OTDA notes that all PA applicants or recipients that receive THA, regardless of where they are placed, benefit from case management and supportive services which help such applicants or recipients find and maintain permanent housing. OTDA further notes that explicitly requiring districts to provide such services to PA applicants or recipients that receive THA who are placed in hotel/motel facilities will be consistent with most districts' current practices and will benefit not only the individuals and families placed at hotel/motel facilities, but also the districts and community at large by helping such applicants or recipients find and maintain permanent housing.

There is no significant impact to small businesses because the proposed regulations establish reasonable minimum standards that only apply to those hotel/motel facilities that affirmatively choose to work with a district for placements for PA applicants or recipients that receive THA. Given all of the facts and circumstances, the proposed regulatory amendments minimize adverse impacts on districts and small businesses as much as possible.

7. Small business and local government participation:

OTDA has notified the districts of the proposed regulatory amendments, has shared drafts of proposed regulations with the districts and affected hotel/motel facility owners and operators, participated in multiple teleconferences with the districts, and solicited written comments from both the districts and affected hotel/motel facility owners and operators. Based on the comments received, and

at the request of the districts, OTDA modified the proposed regulations by: (1) merging district hotel/motel facility service plans and the hotel/motel operational plan into a single, streamlined district hotel/motel plan; (2) removing certain requirements that were duplicative of other State and local laws, regulations, and codes; (3) removing a provision that would have prohibited hotel/motel facilities from designating or setting aside specific rooms for PA applicants or recipients that receive THA; and (4) allowing for more than two people to be placed in larger rooms.

The districts and hotel/motel facility operators appreciated that OTDA addressed their concerns and anticipate that they are prepared to implement the proposed regulatory amendments.

7. For rules that either establish or modify a violation or penalties associated with a violation:

To the extent that a district is compliant with all of the proposed regulatory amendments, reimbursement is available to districts for reasonable and necessary costs related to providing THA to public assistance applicants and recipients in hotel/motel facilities. The proposed regulatory amendments would be consistent with Social Services Law § 20(3)(e), which already explicitly authorizes OTDA to “withhold or deny state reimbursement, in whole or in part, from or to any district or any city or town thereof, in the event of the failure of either of them to comply with law, rules or regulations of [OTDA] relating to public assistance and care or the administration thereof.”

Rural Area Flexibility Analysis

1. Types and estimate numbers of rural areas:

The proposed regulatory amendments would apply to the 44 rural social services districts (rural districts).

2. Reporting, recordkeeping and other compliance requirements; and professional services:

The proposed regulatory amendments would require each rural district that will be placing public assistance (PA) applicants or recipients that receive Temporary Housing Assistance (THA) in hotel/motel facilities and seeking reimbursement from State or State-administered grants or funds to submit a Social Services District hotel/motel facility service plan. A Social Services District hotel/motel facility service plan must include a list of the hotel/motel facilities used by the rural district and describe, among other things, the rural district's plan for providing case management services, assistance in applying for other public benefits, supportive social and mental health services, meal services, and health services to persons and families placed in hotel/motel facilities.

Rural districts would be required to inspect hotel/motel facilities before placing PA applicants or recipients that receive THA in those facilities, and at least every six months thereafter, or as otherwise determined by the Office of Temporary and Disability Assistance (OTDA), for so long as the rural district continues using the hotel/motel facilities. Rural districts would also be required to submit their

initial inspection reports to OTDA before using the facility to place PA applicants or recipients that receive THA. Subsequent inspection reports would have to be submitted to OTDA within 20 business days of those inspections. If a rural district does not use a hotel/motel facility to place recipients of THA for three consecutive months, the rural district would not be obligated to continue inspecting the hotel/motel facility; however, the rural district would be obligated to inspect the hotel/motel facility before resuming use of the hotel/motel facility.

In the event of a serious incident impacting upon the safety and well-being of a PA applicant or recipient that receives THA and who has been placed by a district in a hotel/motel facility, the owner or operator of the hotel/motel facility would be required to immediately report the incident to the rural district. The rural district would then be required to submit an incident report form to OTDA within three business days after receiving notice of the incident.

3. Costs:

The proposed regulatory amendments are not anticipated to result in significant additional costs for the State or rural districts, as most of the requirements set forth in the regulations are already being carried out under existing policies and procedures, including most inspections, reporting, and recordkeeping.

Accordingly, it is not anticipated that this proposed regulation will result in any significant impact upon property taxpayers in rural districts. While the additional costs to rural districts are anticipated to be minimal, a few of the smallest rural districts expressed concern regarding the need for additional staff and associated

funding to provide case management services under the proposed regulations. In the few rural districts that may not be providing services consistent with the requirements contained in the proposed regulations in hotel/motel facility placements, the anticipated costs should nonetheless be low and may be at least somewhat offset by reduced PA costs resulting from PA applicants or recipients moving into permanent housing sooner than would be expected in the absence of such services. For the limited number of districts that do not already provide case management services to individuals and families experiencing homelessness that are placed in hotel/motel facilities, costs are estimated to be less than \$120,000 annually. Furthermore, rural districts would have the ability to decide how services will be provided, which should mitigate the impact of the minimal costs. For example, rural districts would be able to provide case management services for THA recipients placed in hotel/motel facilities using the same staff and in conjunction with existing required case management services associated with helping individuals obtain employment. Moreover, the proposed regulations ensure that the same services are provided regardless of whether PA applicants or recipients are placed in shelters or hotel/motel facilities. One area of change that may reduce costs and burden on districts in the proposed regulations is related to inspections. Currently, districts are required to inspect the hotel/motel facilities used as placements at least once every six months and to send reports of their inspections to OTDA within 30 days of completion of the inspection. While the proposed regulatory amendments keep the six month inspection requirements for hotel/motel facilities that are being used for

placement, they may reduce administrative burdens for some districts by providing that hotel/motel facilities need not be continuously inspected if they are not used to place PA applicants or recipients that receive THA for three consecutive months. Additionally, the added responsibility in the proposed regulatory amendments of inspecting a hotel/motel facility before it is used for an initial placement is anticipated to be minimal as compared to the existing requirements (see 18 NYCRR § 352.3(h)).

As part of the proposed regulatory amendments, rural districts also would be required to conduct assessments and preliminary health screenings and provide case management services for placements in hotel/motel facilities, consistent with placements in shelter, and rural districts would be required to submit a plan to OTDA on how they will ensure that clients have access to needed services. It is expected that most rural districts are already providing services to clients that are placed in hotel/motel facilities. Districts can choose to provide services themselves, can link clients with services, or can engage with a not for profit to provide the services. This model gives flexibility to districts as to how services will be delivered, and it is expected that most districts are already providing services to clients that are placed in hotel/motel facilities. While the additional costs to districts is anticipated to be minimal, a few small rural districts expressed concern regarding the need for additional staff and associated funding.

4. Minimizing adverse impact:

OTDA considered multiple approaches to minimize adverse impact on rural districts in the development of this rule. An alternative approach that was rejected would have required districts to develop an operational plan for each hotel/motel facility that they intend to use. Instead, OTDA proposes a more streamlined requirement for districts to submit a list of hotel/motel facilities and basic information annually, and to submit a service plan only once and when the information therein changes, which will reduce the administrative burden on rural districts by decreasing the amount of information that would need to be submitted to OTDA and reduce the frequency of required plan updates. Another alternative to the proposed regulatory amendments would be to refrain from promulgating them. However, such inaction would diminish OTDA's ability to exercise needed oversight of hotel/motel facilities that the rural districts use to place PA applicants or recipients that receive THA and impair OTDA's ability to ensure that persons and families experiencing homelessness receive needed services. OTDA does not consider inaction a viable alternative to the proposed regulatory amendments. Given all of the facts and circumstances, the proposed regulations minimize adverse impact on rural districts to the extent possible without jeopardizing the safety of temporary housing residents or precluding services needed to expedite exits from temporary to permanent housing. OTDA notes that all PA applicants or recipients that receive THA, regardless of where they are placed, benefit from case management and supportive services which help such applicants or recipients find and maintain permanent housing, which would

greatly outweigh any minimal adverse impact. OTDA further notes that explicitly requiring rural districts to provide such services to PA applicants or recipients that receive THA who are placed in hotel/motel facilities will be consistent with most districts' current practices and will benefit not only the individuals and families placed at hotel/motel facilities, but also the rural districts and community at large by helping such applicants or recipients find and maintain permanent housing.

5. Rural area participation:

OTDA has notified the rural districts of the proposed rule making, has shared drafts of the proposed regulations with the rural districts and affected hotel/motel facility owners and operators, participated in multiple teleconferences with the rural districts, and solicited written comments from both the rural districts and affected hotel/motel facility owners and operators. Based on the comments received, and at the request of the districts (including the rural districts), OTDA modified the proposed regulations by: (1) merging district hotel/motel facility service plans and the hotel/motel operational plan into a single, streamlined district hotel/motel plan; (2) removing certain requirements that were duplicative of other State and local laws, regulations, and codes; (3) removing a provision that would have prohibited hotel/motel facilities from designating or setting aside specific rooms for PA applicants or recipients that receive THA; and (4) allowing for more than two people to be placed in larger rooms.

Districts, including rural districts, and hotel/motel facility operators expressed appreciation that OTDA addressed many of their concerns and many have indicated that they do not anticipate issues with implementing the proposed regulatory amendments.

Statement in lieu of a Job Impact Statement (JIS)

A JIS is not required for the proposed regulatory amendments. The purposes of the proposed regulatory amendments are to update and supplement current State regulations to: (1) set forth the responsibilities of social services districts (districts) with respect to hotel/motel facilities that are used to provide temporary emergency housing to persons and families experiencing homelessness; (2) update and clarify the standards applicable to these hotel/motel facilities; (3) require that public assistance (PA) applicants/recipients that receive Temporary Housing Assistance (THA) who are placed in hotel/motel facilities are provided with supportive services that are currently available to public assistance applicants or recipients that receive THA placed in shelters; and (4) clarify the Office of Temporary and Disability Assistance's oversight and enforcement authorities with respect to hotel/motel facilities used by districts to place THA recipients. In recognition of, and to accommodate the new Part 902, the rule would also make the following amendments: (1) amend 18 NYCRR § 352.3(e)(2) to remove the outdated maximum allowable cost for a refrigerator rental in a hotel/motel facility; (2) amend 18 NYCRR § 352.3(f) to remove the limitation on districts that they may not place a PA applicant or recipient that receives THA in a hotel/motel facility for longer than six months unless such district submits an annual determination to OTDA that housing other than hotel/motel facilities and certified shelters are not available, and outdated references to maximum daily shelter costs, currently set at \$16 per day for the first person and \$11 per day for each additional occupant in the room; (3) repeal 18 NYCRR §§ 352.3(g) and (h) which contains the extant standards and inspection requirements for hotel/motel facilities, as these would be replaced by new Part 902; (4)

repeal 18 NYCRR §§ 352.3(m) which contains outdated inspection requirements applicable to uncertified shelters, as these would no longer be necessary due to new Part 902; (5) amend 18 NYCRR 352.35(b)(3) to make conforming changes to the definition of “temporary housing,” to reflect changes made by Part 902; and (6) amend 18 NYCRR §§ 491.2(f) and 900.2(e) to clarify that the regulations relating to shelters for homeless persons and families experiencing homelessness set forth in Parts 491 and 900, respectively, do not apply to commercial hotel/motel facilities used as temporary placements, given that such placements would now be subject to new Part 902. Therefore, it is clear from the foregoing that the proposed regulatory amendments would not substantively affect the jobs of employees in the private sector or at the State or district level.