NEW YORK STATE
DEPARTMENT OF SOCIAL SERVICES
40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001

MARY JO BANE
Commissioner

(518) 474-9475

LOCAL COMMISSIONERS MEMORANDUM

Transmittal No: 92 LCM-183

Date: December 1, 1992

Division: Services and Community Development

TO: **Local District Commissioners**

SUBJECT: Criteria for Requests for Use of Savings or Cap Increases Pursuant to the SFY 1992/93 Cap on Foster Care Expenditures

ATTACHMENTS: None

The purpose of this letter is to provide you with the criteria for approval of requests for use of anticipated savings under the foster care cap established for State Fiscal Year 1992/93. This letter will also advise you of the approval criteria for granting an increase of the established SFY 92/93 foster care cap limitation on the State share of foster care expenditures. Foster care cap revisions will be made when a district has demonstrated substantial unanticipated increases in foster care expenditures due to a natural disaster or other emergency or unforeseen circumstances. However, there are extremely limited funds available for increasing established caps.

REQUEST FOR USE OF PROJECTED SAVINGS

Chapters 53 and 793 of the Laws of 1992 defined the foster care cap. They set limits on State reimbursement and define the conditions under which savings can be used. Districts which project expenditures below the cap may choose to request approval to spend up to 50% of the projected savings in the current State Fiscal Year. Alternatively, such districts can decide not to spend any anticipated savings in the current year but rather plan to spend all savings in State Fiscal Year 93/94.

A plan for such spending, which meets the criteria specified below, must be presented and approved by the Department. Districts which do not submit a plan will not be allowed to spend their cap savings in either State fiscal year. All social services districts are encouraged to submit plans to utilize foster care cap savings for initiatives to reduce future local foster care expenditures or to offset the state and local share of foster care preventive service expenditures. However, the total of savings realized and the State share of foster care reimbursement cannot exceed the foster care cap limitation. In other words, state reimbursement cannot exceed the published foster care cap.

The foster care cap includes both IV-E and FNP foster care administrative expenditures claimed during the period October 1, 1991 through September 30, 1992 and all foster care maintenance and tuition expenditures claimed for the period January 1, 1992 through December 31, 1992 as well as any claims for prior periods. Savings (i.e. the difference between the published foster care cap and actual claims submitted and paid) can be utilized on new initiatives begun as of October 1, 1991 or to offset the local share of foster care preventive services expended back to October 1, 1991.

1. The approval criteria is as follows:

   a. All plans must be approved by the Department and must include an estimate of projected State share savings under the cap which the district intends to divert in the current State fiscal year and/or the amount of anticipated savings which the district wishes to utilize in the subsequent fiscal year. Districts should prepare a spending plan showing in which State Fiscal Year, 1992/93 or 1993/94, costs would be incurred. However, no more than 50% of the savings will be paid to a district in SFY 1992/93. Pursuant to Chapters 53 and 793 application of savings dollars fulfills both State and local shares after service costs are reduced by any applicable federal funds.

   b. All plans must demonstrate that such new initiatives are designed to reduce expenditures which otherwise would have been incurred for foster care services during the current State fiscal year. In the case of districts which are planning for anticipated savings to be spent in the State Fiscal Year 93/94, the initiatives planned must relate to anticipated reductions in that or the succeeding fiscal year.

   c. New initiatives to prevent foster care placement, to speed foster care discharge or to speed adoption of foster children will be considered. The proposed new initiative(s) need to be presented in sufficent detail to enable review and should include both programmatic, and fiscal estimates of costs/savings including source of any ongoing funding necessary. There is no standardized format. The Department will accept your request in the manner in which the proposal was approved internally in your local district.

d. Implementation of new alternative foster care program models designed to support permanency goals will be considered. (e.g.therapeutic foster care, family preservation programs, and respite services,etc).

All social services districts should develop plans to divert foster care cap savings towards initiatives to reduce foster care caseload and/or expenditures. Local districts which have foster care savings, but no approved plan to use those savings, will not be eligible to utilize any of those savings.

Local district plans will be accepted continuously until December 31, 1992. However, earlier requests will be handled in a more expeditious manner. All local districts will know the approximate amount of foster care cap savings since the amount of the savings is determined by all applicable foster care claims for the period ending December 31, 1992. Please mail your requests to:

Mr. James F. Purcell
Associate Commissioner
Office of Family and
Children Services
40 North Pearl Street, 11A
Albany, New York 12243.

REQUEST FOR FOSTER CARE CAP INCREASES

Chapters 53 and 793 of the Laws of 1992 allow the Department, subject to Division of Budget approval, to grant exceptions to the cap based on natural disasters or emergencies or other unforeseen circumstances. Cap increases are not automatically given, but are subject to confirmation by the Department and availability of funds. Written justification must be submitted no later than December 31, 1992. Justification must show that the increased State share claims are the result of changes in the characteristics of the foster care caseload which constitute a significant aberration from patterns of previous years. **There is an extremely limited amount of funds available for this purpose.**

1. An increase of the foster care cap will be permitted if it can be demonstrated that the recent changes in the number or characteristics of the foster care caseload are the consequences of either a natural disaster or an emergency.

2. The following are the general guidelines that the Department will use to review and approve requests for an increase of a local district's foster care cap based upon unforeseen circumstance(s):

a. Local practice in preventing foster care, maintaining children in least restrictive placement levels and reducing length of stay is adequate as demonstrated by:

1) The relationship or ratio of preventive services to foster care spending as compared to comparable districts.

2) District initiation of new preventive programs or approaches to avert placement, maintain children in less restrictive settings or reduce lengths of stay. Such programs include but are not limited to therapeutic foster care, family preservation projects, respite services or services to speed adoption outcomes.

3) Local district participation in training and technical assistance focused on any of the areas noted in Section #2 above.

4) Unanticipated increases in tuition rates for foster care children in child caring institutions that had a significant impact on foster care claims.

b. Local practice in claiming for foster care costs has maximized the use of federal categories including maximizing the use of Title IV-E; maximizing IV-E Administrative Reimbursement through proper SSRR/RMS coding; maximizing use of EAF funding; and reviewing new and existing cases for potential applicability of SSI/Zebley.

Any program related questions regarding the foster care cap should be directed to Santo Vivona of the Bureau of Resource Management by dialing 1-800-342-3715, extension 6-3438 (OA USERID AZ1440) or directly dialing (518) 486-3438.

Any fiscal related questions regarding the foster care cap should be directed to Roland Levie - Upstate at 1-800-342-3715, extension 4-7549 (OA USERID AX2060) or Marvin Gold - Metropolitan at (212) 804-1108 (OA USERID OFM270).

Please do not hesitate to call if we can be of any assistance in developing your requests for an increase of your local district's foster care cap or plans for diverting projected State Fiscal Year 1992/93 foster care savings.

James F. Purcell
Associate Commissioner
Office of Family and
Children Services