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| OCFS ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 98 ADM-11

TO: Commissioners of
Social Services

OFFICE: Strategic Planning
and Policy
Development

DATE: June 22, 1998

SUBJECT: Authorization For Social Services
Districts to Approve Adoption Subsidies

SUGGESTED

DISTRIBUTION: | Directors of Services
| Adoption Staff
| Legal Staff
| Foster Care Staff
| Medical Assistance Staff
| Directors of Authorized Adoption Agencies

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ATTACHMENTS: | Application for Authorization to Approve Adoption
| Subsidies (on-line)
|

FILING REFERENCES

Previous | Releases | Dept. Regs. | Soc. Serv. | Manual Ref. | Misc. Ref.
ADMs/INFs | Cancelled | | Law & Other | |
		Legal Ref.	
	421.24	SSL 453	

DSS-296EL (REV. 9/89)

I. PURPOSE

The purpose of this directive is to advise you of changes in Department regulation and policy implementing the provision in Social Services Law that permits the Office of Children and Family Services (OCFS) to authorize a social services district to approve adoption subsidy agreements.

II. BACKGROUND

Currently, all adoption subsidy agreements are processed by social services districts and must be submitted to OCFS for final approval. Permitting social services districts to approve adoption subsidies was one of the recommendations resulting from an internal review of the adoption subsidy program aimed at expediting the review and approval of adoption subsidy applications. The recommendation was also based on the feedback received from social services districts as part of the review.

Before recommending a statutory change, the former Department of Social Services requested and received clarification from the federal Department of Health and Human Services that a social services official as the representative for the State could approve adoption subsidy agreements without sign-off from OCFS. Consequently, Section 453 of the Social Services Law (SSL) was amended to provide that OCFS may authorize a social services official to approve or disapprove an adoption subsidy agreement on behalf of OCFS.

III. PROGRAM IMPLICATIONS

Note: Chapter 436 of the Laws of 1997 renamed the Department of Social Services as the Department of Family Assistance comprised of two independent Offices -- OCFS and the Office of Temporary and Disability Assistance (OTDA). Everywhere in this Directive where we make reference to statutory or regulatory provisions referring to the "Department", the responsibility has been transferred to OCFS.

State regulations, Title 18, Section 421.24 (c) (13) through (17) have been amended to provide that "the Department may authorize the social services official to approve or disapprove the subsidy agreement on behalf of the Department in accordance with the provisions of section 453 (2) of the Social Services Law." Included in the regulations are standards by which OCFS will evaluate a social services district's request for such authorization. However, these are the minimum standards since the regulations also provide that OCFS may require additional standards to ensure a social services district's compliance with State and federal adoption assistance requirements.

A new form "Application for Authorization to Approve Adoption Subsidies" is to be used by social services districts requesting authorization for final approval of adoption subsidy agreements. New York State Adoption Services (NYSAS) is the bureau within OCFS that has the responsibility for the review and approval of authorization requests.

IV. REQUIRED ACTION

A. Procedures for Authorization to Approve/Disapprove Subsidies

To receive approval from OCFS for authorization to approve adoption subsidy agreements, a social services district must at a minimum comply with the following standards provided in 18NYCRR 421.24 (c) (13).

- _ The social services district must submit a written request to OCFS requesting authorization to approve adoption subsidy agreements concerning hard-to-place and/or handicapped children.

A social services district that is interested in requesting authorization for final approval of hard-to-place and/or handicapped subsidies must complete and submit the attached "Application For Authorization To Approve Adoption Subsidies" to New York State Adoption Services (NYSAS). The questions on the application apply to all the major areas indicated in the regulatory standards and are intended to elicit responses that will indicate a social services district's compliance with federal and State adoption assistance requirements. Therefore, the responses on the application must be sufficiently detailed to enable NYSAS to assess the social services district's compliance with the requirements.

A social services district will receive a written response from NYSAS indicating approval or denial of its application. NYSAS will stipulate in the approval letter, the duration of the authorization, reporting requirements, provisions for continued supervision of the social services district's adoption subsidy program by OCFS, and any other conditions associated with the authorization. If an application is denied, the social services district will receive a written explanation for the denial.

Note: Although OCFS may give a social services district authority for final approval of adoption subsidies, OCFS continues to have supervisory responsibility for all social services districts adoption subsidy programs.

- _ The social services district must have an adequate number of staff who have been properly trained in the requirements of the federal and State adoption assistance program and the agreement approval process.

The social services district must be able to show that it has a sufficient number of staff involved in the review and processing of subsidy applications to successfully meet the current responsibilities of its subsidy program and also assume any additional responsibility associated with authorization for final approval of hard-to-place and/or handicapped subsidies. In evaluating this standard, NYSAS will consider the number of applications received and processed by a social services district on a monthly basis. Social services districts must also indicate the training provided to staff to ensure that they know the federal IV-E and State eligibility requirements for maintenance and medical adoption assistance.

- _ The social services district must have a satisfactory and effective system in place to complete the review and approval of written adoption subsidy agreement.

Social services districts must provide an explanation of their process for reviewing (completing an assessment of eligibility) and processing subsidy applications (determining the appropriate level of payment based on the child's situation/condition, the date payment is to begin, and submitting the agreement to the unit responsible for subsidy payments), including procedures to ensure compliance with the required time frames for responding to applications submitted directly to the social services district by the adoptive parents, or applications submitted by voluntary agencies.

Note: According to the new provisions in section 453 (2) of the SSL and 18 NYCRR 421.24 (b) (2) (iv), within 30 working days of receipt of a subsidy agreement and documentation from a voluntary authorized agency, a social services district must approve or disapprove the application. If the agreement is not approved within 30 days of submission, the voluntary agency may submit the agreement directly to OCFS for approval or disapproval. Additionally, if the social services district receives authorization for final approval of subsidy agreements, the following provision in Section 453 (2) of the SSL also applies: "If the agreement is not disapproved in writing within thirty days after it is submitted, it shall be deemed approved." Any disapproval of a subsidy application must be accompanied by a written statement of the reasons for such disapproval.

- _ The social service district must assume responsibility for maintaining the necessary files and documentation for federal and State audits and fair hearings, and for providing information to OCFS related to such audits and hearings.

Social services districts must indicate current procedures for maintaining records regarding adoption subsidy agreements and all other forms and documentation related to the child's eligibility or ineligibility for adoption subsidy as required by federal and State statutes and regulations, and which are needed for reviews, audits and fair hearings.

Note: In compliance with 18NYCRR 421.24 (g) "Appeals and fair hearings", if the prospective adoptive or adoptive parent request a fair hearing based on a decision made by a social services district authorized to approved subsidy agreements, the social services district will be responsible for presenting at the hearing all pertinent information needed to justify the reason for their decision.

- _ The social services district must be willing to assume fiscal responsibility for those cases which the district has been authorized by OCFS to approve.

Social services districts that receive authorization to approve adoption subsidies will be responsible for all decisions made by their staff. This responsibility will include any fiscal liability determined as a result of a fair hearing decision, or a determination by OCFS of a wrongful denial of benefits, or the failure of the social services district to act on an application in a timely manner. Such responsibility may also involve disallowances imposed by the federal Department of Health and Human Services in regard to non-compliance with federal Title IV-E standards.

- _ OCFS may require social services districts to comply with additional standards to ensure that a social services district complies with State and federal adoption assistance requirements, and may revoke the authority of a social service official to approve written adoption subsidy agreements when the social services district fails to comply with the federal or State statutory and regulatory standards relating to the administration of the adoption assistance program.

Note: A social services district receiving authorization to approve adoption subsidies will also be expected to assume the responsibility for approving the nonrecurring adoption expenses associated with such subsidies. Therefore, if a social services district requests authorization to approve hard-to-place subsidies for example, the social services district would also assume the responsibility for approving payment for nonrecurring adoption expenses for all special needs hard-to-place adoption cases in their district.

Based on its review of the social services district's application and other pertinent information related to the social services district's adoption subsidy program, NYSAS may require the social services district to provide additional clarification of the questions or comply with additional standards to ensure that the social services district is in compliance with State and federal adoption assistance requirements. Failure to adequately meet all of the requirements may result in a disapproval of the social services district's application.

If during the period of authorization a social services district fails to comply with the conditions of the authorization, or if a review or audit finds the social services district out of compliance with the State or federal adoption assistance requirements, OCFS may revoke the social services district's authorization.

If during the period of authorization or at the time for renewal of authorization the district makes a decision to relinquish or not renew its authorization, the district must provide written notice to OCFS at least six months prior to the effective date of the decision or expiration of the authorization.

B. Responsibilities To Be Turned Over to Districts

A social services district that receives authorization from OCFS to approve adoption subsidies will assume the following duties/tasks currently performed by NYSAS adoption subsidy staff.

- _ Review of the subsidy application to ensure that the child qualifies for subsidy and that the application is correctly completed and contains proper dates and signatures;

Social services districts must establish or already have in place standards to ensure that any application approved by the social services district is audit worthy and supports the rate established. "Audit worthy" means: all expenditures of public funds are subject to audits or reviews to determine that expenditures were made in accordance with statutes and regulations governing their use. Audits are also done to assure that program operations comply with statutes and regulations. Adoption subsidy approvals and program operations can be audited by local, county, State, and fiscal officials or firms hired to conduct these fiscal and programmatic reviews. Positive audit results confirm that public funds are being used as authorized. Unauthorized expenditures are subject to repayment and possible further penalty.

Additionally, consistent with federal and State statutes and regulations, and with the exception of subsidy cases involving unknown pre-existing medical conditions, the final approval of the subsidy agreement must be done prior to finalization of the adoption. Failure to approve the subsidy prior to finalization of the adoption will jeopardize federal and/or State funding and may result in the social services district having total financial responsibility for maintenance and/or medical adoption assistance.

- _ Review of documentation for handicapped subsidy to ascertain if the documentation is appropriate and sufficient to establish eligibility based on the type of condition indicated.

If a social services district receives authorization to approve handicapped subsidies, it must ensure that the documentation necessary to indicate a child's handicap/condition and the level of care/need is part of the application for a handicapped adoption subsidy. The medical and/or mental health report is expected to include a detailed description of the child's problems, including frequency and severity of occurrences and the interventions. Recently, NYSAS published a booklet entitled "New York State Adoption Subsidies" (Pub. # 1130 10/97) intended to help social services districts expedite the adoption subsidy eligibility and approval process, with special emphasis on handicapped subsidies. It provides an explanation and checklist of what the application must contain, what the medical and psychological examination should include and what should be included in the assessment of the child's needs. Each social services district should have received copies of the booklet and information on how to order additional copies. If not, contact NYSAS at 1-800-345-KIDS for information on the booklet.

V. SYSTEMS IMPLICATIONS

Social services districts that receive authorization to approve adoption subsidies will be responsible for all data entries in CCRS and/or Connections associated with the approval and processing of adoption subsidy applications for payment.

Approving adoption subsidies until now has been solely a State-level responsibility. A social services district that is authorized to approve adoption subsidies must request systems authorization from OCFS for specific individuals and terminals to support the required data entry. Details regarding the process for systems authorization will be discussed during the application and approval process.

Two new Adoption Codes have been created in CCRS to support the required data entry.

CODES:

1. A533 - Social Services District Adoption Subsidy Approvals - Handicapped:

Field A - Type of Child: Enter value 1A from Table 3: Handicapped

Field B - Type of Subsidy: Acceptable values are A through D in Table 4:

- A - Maintenance only
- B - Medical only
- C - Maintenance and medical
- D - IV-E maintenance and medical

Filed C - Handicaps -- Table N-9

- A - Medical
- B - Physical
- C - Behavioral
- D - Emotional
- E - Scholastic
- F - Developmental

Field D - Special Handicaps -- Table N-10

- G - Autism
- H - Blind
- I - Cerebral Palsy
- J - Down's Syndrome
- K - Hydrocephalic
- L - Deaf
- M - Spina Bifida

(Fields A - D)

Fields A and B are required
Fields C and D are optional

2. A534 SOCIAL SERVICES DISTRICT ADOPTION SUBSIDY APPROVALS - HARD-TO-PLACE:

Field A -- Type of Child; Acceptable entries from Table 3 are:

- 2A - Hard-to-place - (Other)
- 2B - Hard-to-place - Age
- 2C - Hard-to-place - Sibling group
- 2D - Hard-to-place - Waiting 6 months
- 2E - Hard-to-place - In Home 18 months

Field B -- Type of Subsidy: (same values as A533--Table 4)

Filed C and D: No entries.

EDITS/ERROR MESSAGES:

1. A533:
 - 575 - Field A must be filled in
 - 576 - Field B must be filled in
 - 580 - Invalid entry Field A
 - 581 - Invalid entry Field B
 - 582 - Invalid entry Field C
 - 583 - Invalid entry Field D

2. A534:
 - 573 - Field C should be blank
 - 574 - Field D should be blank
 - 575 - Field A must be filled in
 - 576 - Field B must be filled in
 - 580 - Invalid entry Field A
 - 581 - Invalid entry Field B

VI. ADDITIONAL INFORMATION

The social services district must submit the application to:

NYS Office of Children and Family Services
New York State Adoption Services
40 North Pearl
Albany, N.Y. 12243

VII. EFFECTIVE DATE

This directive is effective July 1, 1998.

William F. Baccaglioni
Director
Strategic Planning
and Policy Development