

OFFICE OF CHILDREN AND FAMILY SERVICES

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| LOCAL COMMISSIONERS MEMORANDUM |
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OCFS-4616EL (Rev. 11/98)

Transmittal No: 00 OCFS LCM-31

Date: November 28, 2000

Division: Administration

TO: Social Services Commissioners

SUBJECT: Revised Claiming Instructions: Foster Care and Pre-Adoptive Homes Pending Criminal Record Background Check Results For Room and Board Provided Prior to July 1, 2000

ATTACHMENTS: None

I. PURPOSE

The purpose of this Local Commissioners' Memorandum (LCM) is to provide social services districts updated instructions for claiming federal and State reimbursement made necessary by implementation of the federal Adoption and Safe Families Act (ASFA) of 1997, Chapter 7 of the Laws of 1999 and Chapter 145 of the Laws of 2000 of the State of New York. Guidance and instructions in this LCM are for claiming reimbursement for payments to prospective foster care and pre-adoptive homes for room and board provided on or after January 1, 1999 and prior to July 1, 2000. The Office of Children and Family Services (OCFS) issued revised claiming instructions for payments made for prospective foster care and pre-adoptive home room and board services provided on or after July 1, 2000 in 00 OCFS LCM-25.

II. BACKGROUND

Social services districts were advised of claiming instructions for foster and adoptive homes undergoing criminal record background checks in 99 OCFS LCM-8. The instructions were issued to preserve the integrity of the Title IV-E claiming process while the State was working through differences in interpretation of the requirements of ASFA.

Effective July 1, 2000, the State Legislature enacted Chapter 145 of the Laws of 2000 of the State of New York in which by an Act of the Legislature the State opted-out of the federal ASFA requirements pertaining to completion of the federal Criminal Record Background Check (CRBC) process for prospective foster and pre-adoptive parents. The State continues to mandate its own CRBC process for the certification and approval of such homes but is now able to establish its own safety standards independent of federal ASFA CRBC mandates.

However, final federal child welfare regulations effective March 27, 2000, retain the federal prohibition against claiming Title IV-E for payments to newly opened homes prior to a final approval or certification being issued. This, in effect, requires that the State's CRBC requirements be successfully completed prior to the claiming of Title IV-E reimbursement for payments made to such a home because it is a condition of final approval or certification under the State's ASFA law. The opt-out provisions of Chapter 145 only affect the CRBC process and criteria, and has no impact on the federal prohibition against claiming Title IV-E on payments to homes prior to completion of all certification and approval requirements, including the CRBC.¹

OCFS has filed an appeal with the US Department of Health and Human Services Appeals Board (DAB) contesting the federal denial of Title IV-E claims for payments made to prospective foster and pre-adoptive homes that were undergoing the CRBC process. The Title IV-E claims were based on the special claims (LDSS 3922) submissions by social services districts pursuant to 99 OCFS LCM-8. OCFS is hopeful of prevailing in that appeal, especially since there were no federal regulation in force governing the claiming requirements prior to March 27, 2000.

III. CLAIMING CRITERIA

To protect the fiscal interests of both the State and social services districts, OCFS advised the Administration for Children and Families (ACF) of our intent to file protective claims under the Title IV-A program for payments denied Title IV-E reimbursement pending the outcome of our appeal of those denial actions to the DAB. Protective filing under TANF-EAF can only be done for payments made on behalf of cases that were authorized as both Title IV-E and Title IV-A (EAF) pursuant to 94 LCM-52 or 00 OCFS ADM 3. In addition the protective filing option will be used only for payments made for room and board services provided prior to July 1, 2000.

Districts must review their special claims submissions for payments to prospective foster and pre-adoptive homes for services provided between January 1, 1999 and June 30, 2000 to determine those payments made on behalf of cases authorized as both Title IV-E and Title IV-A (EAF). Those are to

1. The State CRBC standards enacted by Chapter 145 of the Laws of 2000 eliminate the absolute mandates that applicants must be denied if a person is convicted of certain categories of crimes. The new State standard creates rebuttal presumption for denial of a certification or approval.

Date November 24, 2000

Trans. No. 00 OCFS LCM-31

Page No. 3

be claimed on a protective basis as TANF-EAF as per payments as per claiming instructions below. The Title IV-E claims will be unaffected pending the outcome of the appeal to DAB. TANF-EAF funding will be provided only if and to the extent the appeal of the Title IV-E denial is not successful. Districts should file all supplemental claims made as a result of this LCM for the January 1, 1999 - June 30, 2000 period by April 30, 2001.

IV. CLAIMING INSTRUCTIONS

The following claiming instructions are for filing EAF claims to protect the fiscal interests of both the State and social services districts denied Title IV-E reimbursement pending the outcome of the State's appeal to the federal Health and Human Services Departmental Appeals Board.

Your are instructed to identify payments for room and board services provided by prospective foster and pre-adoptive homes during the period January 1, 1999 to June 30, 2000, which were determined eligible for both Title IV-E and TANF-EAF at the time of the case opening, and were originally claimed Title IV-E on the LDSS-3922 (Financial Summary of Special Projects). The identified payments should be listed on supporting rolls and reported as TANF-EAF eligible on a separate LDSS-3922 to be filed for each month. The "Project Name" on the LDSS-3922 should be "ASFA PROT EAF." The expenditures should be claimed on the LDSS-3922, on line C.12 and labeled "Foster Care". The expenditures are claimed as 50% federal, 50% state shares, even though they may eventually be reimbursed at 100% federal through the "TANF PA to Foster Care Swap" provisions.

CONTACTS

If you have any questions about the claiming criteria section of this letter please contact Mr. John Conboy at 1-518-402-0147, by using Exchange, or User ID # 90b061.

Questions pertaining to the claiming instructions may be directed to Mr. Roland Levie (Regions I-IV) at 1-800-343-8859, extension 4-7549 (User ID # FMS001) or in Region V Mr. Marvin Gold at 212-383-1733 (User ID # 0FM270).

Melvin I. Rosenblat
Deputy Commissioner for Administration