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TRANSMITTAL: 90 INF-64

TO: Commissioners of
 Social Services

DIVISION: Family &
 Children
 Services

DATE: November 14, 1990

SUBJECT: Transitional Child Care Program Questions & Answers

SUGGESTED

DISTRIBUTION: Income Maintenance Supervisors
 Day Care Staff
 Services Supervisors
 Staff Development Coordinators

CONTACT PERSON: Questions should be directed to Dee Woolley, Bureau of
 Child Care, 1-800-342-3715, ext. 4-9627.

ATTACHMENTS: Attachment A: Transitional Child Care Questions and
 Answers (available on-line).

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-31		18 NYCRR Parts 369, 404, 415	390 422.4(a) 424.a	MB-195 PASB XV-J-6-ALL	

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The purpose of this letter is to inform districts of the responses to questions raised at the New York Public Welfare Association/New York State Department of Social Services Exemplary Practices Seminars on May 3, 1990 in Rochester and May 8, 1990 in Albany. The State JOBS Bill, which was passed subsequent to the seminars, extended Transitional Child Care benefits to Home Relief recipients who became ineligible on or after April 1, 1990 due to increased earned income, increased hours of employment or loss of the earned income disregards. As used in Attachment A, "PA" refers to ADC, HR and VA.

Joseph Semidei
Deputy Commissioner
Division of Family & Children Services

ATTACHMENT A
TRANSITIONAL CHILD CARE QUESTIONS & ANSWERS

Application/Eligibility Issues

1. Question: What information has to be sent out to PA recipients at the time of case closing?

Answer: PA cases closed due to reasons other than employment are required to receive the Notice of Potential Eligibility for Transitional Child Care Benefits (Attachment C to 90 ADM-31) or approved local equivalent. (Refer to Social Service Regulations 18 NYCRR 415.7(e)(2).)

PA cases closed due to an increase in earned income, increased hours of employment, or loss of the earned income disregards are required to receive, at the time of closing of the PA case, the following: the Notice of Potential Eligibility for Transitional Benefits (Attachment A to 90 ADM-31) or approved local equivalent; the Applicant Questionnaire (Attachment B to 90 ADM-31); and the DSS-2921 or DSS-2921 (NYC) Application. The family is allowed to mail the Application and Applicant Questionnaire and appropriate documentation back to the district. A face-to-face interview is not required to determine eligibility for such benefits. (Refer to Social Service Regulations 18 NYCRR 415.7(d)(1).) If the social services district cannot resolve questions concerning the application for Transitional Child Care Benefits in any other manner, the family may be asked to arrange an interview.

2. Question: Who in the district should take the application for Transitional Child Care Benefits: Services or Income Maintenance?

Answer: The social services district determines which organizational unit should process the application for Transitional Child Care benefits. The application must be processed as a Services case in WMS and financial eligibility determined according to Services rules and regulations. (Refer to Social Service Regulations 18 NYCRR Section 404 and Bulletin 195.)

3. Question: Are PG-ADC cases eligible for Transitional Child Care?

Answer: PG-ADC is an HR category and, therefore, such cases are eligible for Transitional Child Care.

4. Question: Are ADC-U families eligible for Transitional Child Care?

Answer: ADC-U families are eligible provided all eligibility requirements are met. The parental deprivation factor is not applicable to the ADC-U population for Transitional Child Care eligibility purposes.

5. Question: If the PA case is closed due to an increase in unearned income and the individual is employed, is the family eligible for Transitional Child Care?

Answer: If an increase in unearned income causes the PA case to be ineligible, then the family is not eligible for Transitional Child Care. When a family is determined to be ineligible for Transitional Child Care benefits, the social services district should consider the family's eligibility for Title XX or Low Income Day Care.

6. Question: A recipient, who is employed, requests the PA case to be closed even though the family income is within PA eligibility limits and subsequently requests Transitional Child Care benefits. Is the case eligible for Transitional Child Care Benefits?

Answer: The family is not eligible for Transitional Child Care benefits since the family has not lost eligibility for PA due to increased earned income, increased hours of employment, or loss of the earned income disregards.

Social services districts are required to inform recipients who request their case to be closed that they may be ineligible for Transitional Child Care benefits if the PA case is closed for reasons other than employment. (Refer to Social Service Regulations 18 NYCRR 415.7(e)(3).)

7. Question: The PA case is closed at the recipient's request or for non-compliance or non-employment reasons. The recipient subsequently applies for Transitional Child Care and states that the family had found employment and would have been ineligible for PA for that reason. Is the family eligible for Transitional Child Care?

Answer: If the family can document that they had been employed at the time of closing and would have been ineligible for PA due to an increase in earned income, increased hours of employment or loss of the income disregard, the family would be eligible for Transitional Child Care benefits provided they meet the other requirements. (Refer to Social Service Regulations 18 NYCRR 415.7(b).)

8. Question: A family receiving Transitional Child Care benefits moves out of the county. Who is responsible for Transitional Child Care benefits?

Answer: When a family receiving Transitional Child Care moves to a different county, the new county of residence is responsible for payments for Transitional Child Care beginning the second full month that the family has lived in that county. The prior county of residence is obligated to continue payment for Transitional Child Care during the month the family moves to a different county, and the first full month following the month in which the family moved. The family must be informed that a new DSS-2921/DSS-2921(NYC) Application must be filed in the new social services district to continue benefits. (Refer to Social Service Regulations 18 NYCRR 415.4(k).)

9. Question: A family receiving Transitional Child Care benefits moves from the social services district and then returns. Does the family have to reapply?

Answer: If the family returns to the original social services district after the WMS/Service case in that social services district has closed, a new DSS-2921/DSS-2921(NYC) Application must be taken. In any event, eligibility and family circumstances must be documented in the case record. Transitional Child Care benefits continue for any remaining time in the original 12 month eligibility period.

10. Question: If a family is receiving child care under Title XX and becomes eligible for Transitional Child Care, does a new application have to be taken?

Answer: If a family receiving Title XX day care while on Public Assistance becomes eligible for Transitional Child Care, a new DSS-2921/DSS-2921(NYC) Application is required to redetermine financial eligibility for Transitional Child Care benefits.

11. Question: Can the recipient apply for Transitional Child Care at any time after PA case closing and receive benefits retroactively?

Answer: The recipient may apply for Transitional Child Care benefits anytime during the twelve month eligibility period. Benefits must be made retroactive if the recipient can document they were eligible. Documentation should include income and child care expenses. (Refer to Social Service Regulations 18 NYCRR 415.7(b) and 415.7(d)(2).)

Rate/Fee Issues

12. Question: When do you use the full-time versus the part-time rate for Transitional Child Care?

Answer: Full-time is defined as care provided for four or more days per week and 30 hours or more per week. Part-time is care provided on other than a full-time basis. (Refer to Social Service Regulations 18 NYCRR 415.9(a).)

13. Question: What rate is used for care for school-age children during school vacations?

Answer: Either the full or part-time local market rate is applied depending on the number of days and hours per week that child care is required.

14. Question: Transitional Child Care is provided out of county. Which local market rate applies?

Answer: The local market rate of the county in which the child care is provided is applied.

15. Question: A Transitional Child Care recipient is required to work overtime and the provider charges an additional amount for child care for the extra hours. This additional charge goes over the local market rate for full-time care. Can the social services district be reimbursed for the additional charges?

Answer: If overtime is required by the employer, any additional fees charged by the provider for child care during the overtime hours can be reimbursed up to the local market rate for part-time or full-time care, whichever is applicable. If the Transitional Child Care recipient must arrange for care by a second provider in order to work overtime hours, reimbursement will be made to the second provider for the actual cost of care up to the applicable local market rate in addition to the reimbursement for the regular hours of care provided by the first caregiver for the actual cost of care up to the applicable local market rate. (Refer to Social Service Regulations 18 NYCRR 415.6(e)(3)(i).)

16. Question: What impact do local market rates have on the \$60 maximum reimbursable rate for day care centers?

Answer: Local market rates establish the maximum reimbursable rates for each type of care by age of child. The \$60 limit no longer applies. (Refer to Social Service Regulations 18 NYCRR 415.6(e)(3) and 415.9.)

17. Question: Is a parent fee charged for Transitional Child Care if the family's income is below 200% of the state income standards?

Answer: The social services district must require each family receiving Transitional Child Care to contribute toward the payment of child care costs based upon family income. The social services district should apply the fee schedule currently in place for day care to the Transitional Child Care Program. The fee schedule has to be adjusted to assess Transitional Child Care families a minimum fee of \$1 per week. The social services district has the option to collect the fee or to have the provider collect the fee. (Refer to Social Service Regulations 18 NYCRR 415.7(f).)

18. Question: What is the responsibility of social services districts to mediate when the Transitional Child Care recipient does not pay the required fee to the provider? Is this different when the provider is an informal caregiver?

Answer: The social services district must notify the recipient of the amount of fee required and whether the fee is collected by the social services district or by the provider. The social services district must notify the provider if the provider is to collect the fee. The social services district must monitor the payment of fees to providers. If fees are not paid and the provider cannot arrange payment, the social services district is required to intercede on the behalf of the provider (regardless of the type of provider- regulated or informal). Recipients who fail to cooperate in paying required fees will, subject to appropriate notice and hearings requirements, lose eligibility for benefits for so long as back fees are owed, unless satisfactory arrangements are made to make full payment. (Refer to Social Service Regulations 18 NYCRR 404.6 and 415.7(f).)

Provider Issues

19. Question: Can the social services district request a State Central Register clearance for informal caregivers or approved family day care providers?

Answer: Informal caregivers and approved family day care providers are excluded from the list of providers who may be screened pursuant to Social Services Law Section 424-a.

20. Question: The family selects an informal caregiver to provide Transitional Child Care. The social services district knows that the informal caregiver is the perpetrator in an indicated Child Protective Services (CPS) case. Can the social services district inform the family concerning the indicated CPS case and does the district have to pay for care from this provider?

Answer: Social Services Law Section 422.4(a) which establishes the rules concerning the confidentiality of reports of child abuse and maltreatment maintained by the State Central Register (SCR) and by Child Protective Units in social services districts does not authorize the release of SCR reports to families that select informal caregivers to provide transitional child care. However, the definition of "informal child care" requires that such providers certify to the families in receipt of child care services whether they are or are not subjects of an indicated report of child abuse or maltreatment. (Refer to Social Service Regulations 18NYCRR 415.1(c)(i)-(iii).)

If the provider certifies that he/she is not the subject of an indicated report of child abuse and maltreatment and the social services district has verified information that this statement is false, payment should be denied on the basis that the caregiver has provided the family with false or fraudulent information.

The social services district can inform Transitional Child Care recipients concerning the advantages of regulated day care versus informal child care. The social services district must pay for care arranged by the family to any caregiver who meets the definitions of a provider of Transitional Child Care as detailed in 90 ADM-31, Transitional Child Care. The social services district has the option to pay the recipient or the informal child care provider.

21. Question: The caregiver completes and signs the attestations on the Approval of Informal Child Care Provider form and payments are made to or on behalf of the provider. The social services district later learns that the statements attested by the caregiver are false. What actions are taken by the social services district?

Answer: If a social services district establishes that an informal child care provider has provided the family receiving child care services with false or fraudulent information regarding the qualifications for being such a caregiver, including the failure to accurately report whether or not he or she is the subject of an indicated report of child abuse or maltreatment, the social services district can terminate the payment for child care services rendered by such individual (refer to Social Services regulations 18 NYCRR 415.6(a)). The social services district is responsible for notifying the recipient

of such services that payment for informal child care is being terminated or suspended because of the caregiver's reporting of false or fraudulent information to such recipient. However, a specific reference regarding the existence of an indicated report of child abuse or maltreatment can not be communicated to the recipient of such services. Payment for child care services provided by such child care provider could be restored once the social services district establishes that the informal child care provider has corrected the misinformation provided to the recipient of services.

In the event that the child care provider fails to correct the misinformation provided to the recipient, the social service district must notify the recipient that to continue receiving benefits another child care provider must be selected. The social services district should assist the recipient in arranging care, if requested.

22. Question: How does the social services district ascertain that the statements on the Approval of Informal Child Care Provider form are true?

Answer: The attestation signed by the caregiver on the above referenced form that the statements made are correct and true is sufficient for the purpose of determining whether the informal child care is legal unless the social services district, through its own information or other sources, learns otherwise.

23. Question: Can Transitional Child Care benefit payments be made while a provider is being certified?

Answer: Since a day care center, family day care home or group family day care home cannot operate without being licensed, certified or registered a provider cannot provide full-time care for more than two children prior to receiving certification. Transitional Child Care payments cannot be paid for a provider who is undergoing certification unless the provider meets the requirements of an informal caregiver as defined in 90 ADM-31, Transitional Child Care. If the provider meets the requirements of an informal caregiver, the local market rate for informal care would apply.

24. Question: A family eligible for Transitional Child Care benefits wants a neighbor to provide full-time child care for their three children. Does the neighbor have to be certified or licensed?

Answer: An individual who provides child care for three or more children for more than three hours per day must be licensed or certified. No payments for Transitional Child Care can be made for that provider until a permit or certificate is issued. (Refer to Social Services Law Section 390.)

25. Question: Can an individual who is on public assistance be a Transitional Child Care provider?

Answer: A public assistance recipient who meets the definition of one of the legal forms of child care providers as defined in 90 ADM-31, can be a provider of Transitional Child Care.

26. Question: Is Transitional Child Care reimbursement available for day camp when no other legal form of child care is available?

Answer: Day camp does not meet the definition of one of the prescribed forms of child day care as set forth in social service regulations 415.1 and is not reimbursable under the Transitional Child Care program at this time.

27. Question: Informal child care includes care for one or two children in the residence of a caregiver. Are the caregiver's children included in the count of children to determine whether it is legal informal care?

Answer: The informal caregiver's children are not included in the count of children to determine legal care.

28. Question: Can Transitional Child Care be purchased from a school age child care program which is not registered or licensed?

Answer: A school age child care program providing care to children before and/or after school for a total of 15 hours or less per week does not have to be licensed or registered. School age child care programs that are not subject to licensure and which choose not to be registered, are considered informal child care providers. The social services district would compute payments for the actual cost of care up to the informal child care local market rate.

29. Question: Can Transitional Child Care be purchased from a relative of the child?

Answer: Relatives who are legally responsible for a child, including step-parents, cannot be paid for Transitional Child Care. A non-legally responsible relative of a child within the second degree of the child's parent (brother, sister, aunt, uncle, grandparent, or great-grandparent) may provide Transitional Child Care. Relatives not within the second degree may provide Transitional Child Care as long as they meet the definitions of informal child care or are approved, certified, or licensed. Transitional Child Care cannot be purchased from a relative who is a member of the assistance unit, except non-legally responsible essential persons as referred to in Social Services Regulation 18 NYCRR 369.3(c)(2).

30. Question: Can Transitional Child Care be purchased from a "for profit" provider and is State approval required?

Answer: Transitional Child Care can be purchased from any legal provider selected by the parent, including "for profit" providers. The social services district does not need to file a waiver for state approval.