

B. PAYMENTS TO FOSTER PARENTS

1. Introduction

The State Department of Social Services sets maximum monthly payment allowances for the board and care of children in foster homes. There are separate allowances for Normal, Special and Exceptional Foster Care. The Department also sets maximum yearly clothing replacement allowances.

The maximum board and care for Normal children allowances vary by region. The Metropolitan Region consists of New York City, Nassau, Suffolk, Westchester and Rockland counties. The Upstate Region includes all of the other counties in New York State. The difference in allowances is due to the higher cost of shelter in the New York Metropolitan Region. There are no regional differences in the maximum allowances for Special and Exceptional Foster Care. See Appendix G for a list of the current maximum FBH payments.

a) **Clothing - Replacement and Initial** - The maximum yearly clothing replacement allowances are based on age. These allowances are for the replacement of clothing after the children are in care. Since the clothing needs of children at the time of placement may vary, the initial clothing allowance is not subject to the yearly replacement maximum. The placing agency should use its judgment in determining the clothing needs of each child at the time of placement. The initial allowance must be approved by the local social services district responsible for the child. See section F of this chapter for more information.

Applicable Regulation

427.16 Standards on clothing for children in foster care. (a) Responsibility of social services districts. For each child in foster care, the social services district shall:

- (1) determine clothing needs upon admission to care;
 - (2) authorize allowances to buy necessary clothing;
 - (3) authorize special allowances to cover the costs of additional clothing for:
 - (i) religious ceremonies;
 - (ii) educational or summer camp activities;
 - (iii) special physical conditions;
 - (iv) replacement of clothing that is stolen or destroyed; and
 - (4) review and evaluate the child's clothing needs with the child, when appropriate, and the foster parent to ensure that:
 - (i) additional clothing is provided for the child as needed;
 - (ii) clothing is clean, attractive, and well fitting;
 - (iii) the child's participation in the planning and the selection of his clothes is consistent with his age and maturity; and
 - (iv) advance notice is given for special clothing requests.
- (b) For each child placed in a child caring agency or institution, the social services district shall provide a clothing allowance only when the negotiated board rate does not include such an allowance.

b) **Special Payments** - Payments may also be made for special needs items that are not covered by the regular board and care and clothing allowances. Detailed information about special payments follows in this chapter.

c) **Maximum Payments are Not Mandated** - Under Social Services Law 398-a, the state department sets maximum allowances. Local districts set the rate amounts for the children in the district-operated foster boarding home programs. Rates charged by voluntary agencies are subject to local district approval. State reimbursement to local districts for district-operated and voluntary agency programs is subject to the State maximums.

2. Designation of Children in FBH

Children in foster boarding homes are designated as **Normal, Special, or Exceptional** by the local department of social services which has responsibility for the child. This is the case for both children in district-operated foster boarding home programs and programs operated by voluntary child care agencies. Children should be designated within 90 days of admission and re-designated according to changes in condition while in care.

a) **Normal:** The board and care payments to foster parents caring for children in the Normal category cover: food, personal care, household furnishings and operations, educational materials, recreation, normal transportation and shelter. Shelter includes rent or homeowner's costs, maintenance, repairs and fuel and other utilities.

1) Criteria (Child's Characteristics)

The child has no diagnosed physical or mental handicap which requires special care. There may be problems related to neglect, mistreatment or improper care and training such as:

- a) poor nutrition and bad eating habits,
- b) problems with sleeping,
- c) poor hygiene or incomplete toilet training,
- d) inability to relate to others, poor social skills.

There may be separation problems such as fears and resentment towards the child's own family and foster parents and negative attitudes towards authority.

2) Services to be Provided by Foster Parents

The following are to be provided to children in the Normal category:

- a) basic physical care including regular, well-balanced meals and a secure, well-maintained home;
- b) supervision of the child's medical and dental care;
- c) personal care and supervision, attention and affection appropriate to the child's age;
- d) an emotional climate that encourages warm inter-personal relationships, trust, and the development of the child's self-worth and self-discipline;
- e) opportunities for educational, social and cultural growth through suitable reading materials, toys and equipment;
- f) associations with peer groups and opportunities for experiences in school, church and community;
- g) encouragement of the child's talents and interests;
- h) cooperation with the placing agency by being available for case conferences and in-service training;
- i) assistance in arranging for contact with the child's natural family, when appropriate.

b) Special: The payments for children in this category include those items listed under Normal. The higher maximum allowance is to compensate the foster parents for the additional services that the special children require.

1) Criteria - The criteria for special children are listed in Department Regulation 427.6(c).

(c) If approved by the department, social services districts are eligible to receive State reimbursement for payments for special foster care services made on behalf of children who:

- (1) are boarded out with foster parents who meet the criteria of subdivision (e) of this section; and
- (2) suffer from pronounced physical conditions as a result of which a physician certifies that the child requires a high degree of physical care; or
- (3) are awaiting family court hearings on PINS or juvenile delinquency petitions, or have been adjudicated as PINS or juvenile delinquents; or
- (4) have been diagnosed by a qualified psychiatrist or psychologist as being moderately developmentally disabled, emotionally disturbed or having a behavioral disorder to the extent that they require a high degree of supervision; or
- (5) are refugees or Cuban/Haitian entrants, as defined in subdivisions (p) and (q) of section 427.2 of this Title and are unable to successfully function in their communities because of factors related to their status as refugees or entrants. Such factors shall include but not be limited to, the ability to communicate effectively in English, the lack of effective daily living skills and the inability of the child to relate to others in the child's community; or

Note: For the definition of refugees, Cuban/Haitian entrants and unaccompanied refugee minors or unaccompanied entrant minors see Department Regulations 427.2 (p), (q) and (r). These are found in section E of this chapter.

- (6) enter foster care directly from inpatient hospital care. Such children are eligible for special foster care services for a period of one year. Eligibility after one year will continue only if the child meets one of the conditions described in paragraph (2), (3), (4), (5) or (7) of this subdivision; or
- (7) in the judgment of the local social services commissioner, have a condition equivalent to those in paragraph (2), (3), (4) or (5) of this subdivision. Special payments for foster children who have the equivalent conditions described in this paragraph are approved if:
 - (i) a list of equivalent conditions has been developed by the local social services commissioner and approved by the department as eligible for special foster care services; or
 - (ii) individual, child specific requests for special foster care services have been approved by the local social services commissioner. Such child specific requests must be approved by the department within 60 days after approval by the local social services commissioner.

2) Services to be Provided by the Foster Parents - All of the services required by children in the normal category plus:

- a) more personal involvement and time than for children in the normal category. The foster parent should spend more time talking to and working with the child and provide extra opportunities for skill development. The foster parents need to be patient and able to give attention and affection without a positive response from the child.
- b) more intensive supervision. Foster parents may have to provide prescribed physical care such as the preparation of special diets, administering medication or assisting in a program of physical therapy.

c) Exceptional: Foster parents caring for children in the exceptional category are expected to provide the services required for children in normal category and also to provide close supervision for 24 hours a day. The family environment must be carefully structured to enable these children to live in a foster home rather than institutional or other group care.

1) Criteria - The criteria for exceptional children are listed in Department Regulation 427.6(d)

(d) If approved by the department, social services districts are eligible to receive State reimbursement for payments for exceptional foster care services made on behalf of foster children who:

- (1) are boarded out with the foster parents who meet the criteria of subdivision (e) of this section; and
- (2) require, as certified by a physician, 24-hour a day care provided by qualified nurses, or persons closely supervised by qualified nurses or physicians; or
- (3) have severe behavior problems characterized by the infliction of violence on themselves, other persons or their physical surroundings, and who have been certified by a qualified psychiatrist or psychologist as requiring high levels of individual supervision in the home; or
- (4) have been diagnosed by a qualified physician as having severe mental illnesses, such as child schizophrenia, severe developmental disabilities, brain damage or autism; or
- (5) have been diagnosed by a physician as having acquired immune deficiency syndrome (AIDS) or human immuno-deficiency virus (HIV)-related illness, as defined by the AIDS Institute of the State Department of Health. Such definitions are contained in directives issued by the department from time to time. Foster children who have tested positive for HIV infection and subsequently tested negative for HIV infection due to seroconversion remain eligible for exceptional services for a period of one year from the date of the test which indicated seroconversion. Upon expiration of such one year period, the child's condition must be evaluated and the local social services commissioner must determine the child's continued need for exceptional services in accordance with paragraph (2), (3), (4) or (6) of this subdivision; or

(6) in the judgment of the local social services commissioner, have a condition equivalent to those in paragraph (2), (3), (4) or (5) of this subdivision. Exceptional payments for foster children who have the equivalent conditions described in this paragraph are approved if:

(i) a list of equivalent conditions has been developed by the local social services commissioner and approved by the department as eligible for exceptional foster care services; or

(ii) individual, child specific requests for exceptional foster care services have been approved by the local social services commissioner. Such child specific requests must be approved by the department within 60 days after approval by the local social services commissioner.

2) Services to be Provided by the Foster Parents - Some children whose characteristics match the exceptional criteria will require group foster care. However, in many cases, foster parents may be able to provide the necessary care. Supervision must be on a one-to-one, 24-hour a day basis.

The foster parents must be able to work with the professionals involved in the treatment plan, such as physicians, nurses, social workers, psychologists and psychiatrists. They must be able to accept assistance and guidance in caring for the child.

d) Additional requirements for foster parents who receive special or exceptional payments

Regulation 427.6(e) - If approved by the department, social services districts are eligible to receive State reimbursement for payments for special or exceptional foster care services made to foster parents who:

e) If approved by the department, social services districts are eligible to receive State reimbursement for payments for special or exceptional foster care services made to foster parents who:

(1) provide foster family boarding home care to the foster children described in subdivisions (c) and (d) of this section; and

(2) have demonstrated their ability to care for foster children with special or exceptional conditions through past training and experience in nursing, special education, child care or the completion of or participation in special training provided by an authorized child caring agency or other relevant training and experience; and

(3) actively participate in agency training for foster parents of not less than four hours per year in the case of providers of special foster care services and five hours per year in the case of providers of exceptional foster care services; and

(4) actively participate in case conferences as determined by the authorized agency; and

(5) are able to provide the intensive supervision and inter-personal relationships that are consistent with the child's therapeutic goals. This includes the ability to work with the professionals involved in the treatment plan, such as physicians, nurses, social workers, psychologists and psychiatrists. Foster parents must also be able to accept assistance and guidance in caring for the child.

e) **Training:** The initial and ongoing training required by regulations 427.6(e)(2) and (3) may be provided directly by district staff or through contracts with voluntary child caring agencies or other human services agencies approved by the social services districts and qualified to provide such training.

f) **Conditions that are equivalent to the specific special and exceptional conditions.**

Regulations 427.6(c)7 and 427.6 (d)(6) allow local commissioners to develop lists of special and exceptional conditions that are not specifically covered by the revised definitions but are essentially equivalent. Individual, child specific conditions may also be approved for special or exceptional services. Both must be approved by the State Department of Social Services through the following procedures.

1) Lists of Equivalent Conditions

The department expects that the regulations are sufficiently broad enough to cover a significant number of children whose foster care is subject to state reimbursement at the special or exceptional level. Local commissioners and their staffs should review the criteria and determine if there are any classes of children in care whose conditions are not specifically covered by the regulations but who they believe should be eligible for the enhanced state reimbursement.

The local commissioner may then submit justification for these conditions for approval to this department through the appropriate regional office of the Division of Services and Community Development. Department approval must be obtained before the special or exceptional rate can be paid.

The department will determine if the conditions:

- a) Already meet the special or exceptional criteria,
- b) Are equivalent to the special or exceptional criteria and can be approved, or
- c) Are not equivalent and cannot be considered eligible for enhanced state reimbursement.

The regional office will notify the social services district of the determination. Social services districts may expand and update their list through the above process.

Approved lists of equivalent conditions must be shared with voluntary child caring agencies that have contracts to provide foster boarding home services for the social services district.

2) Child Specific Conditions

Local commissioners may also request approval for a child with a condition that is not specifically addressed by the regulations but who they believe requires special or exceptional care.

In such cases, the local commissioner may approve the special or exceptional rate and then submit a request through the regional office. The department will make every effort to make a decision within 60 days. If the department does not act on the request within 60 days, the rate can be continued until a decision is made. If the request is denied, the rate may be continued until the end of the month in which the district is notified of the department's decision.

However, if a social services district requests approval for a condition or conditions previously denied to that district by this department, the subsequent denial is retroactive to the date that the rate was first approved by the social services district.

g) **Notification of Foster Parents**

Social services districts must advise all foster parents and applicants of the requirements for designating children as special and exceptional and for receiving the higher payments for providing such care. This information must be included in the district's foster parent manual that is required by 18 NYCRR 443.3(p).

h) Variable Rates for Special and Exceptional Services

In some instances, social services districts pay more than one rate for special or exceptional foster care services. Districts have reported rates based on variables such as the child's age or type and severity of condition. While the regulations do not prohibit this practice, districts are reminded that they must be consistent in the application of district standards.

3. Special Payments- Applicable Regulation: 427.3(c) Special Payments (boarding homes)

(1) For purposes of allowability in the maximum State aid rate- setting process, the term special payments, as referred to in subdivision (a) of the section, means those expenditures made on behalf of a child residing in a foster boarding home for items, costs, or services that are approved pursuant either to paragraph (3) or (4) of this section as being necessary for the child but that are not included in establishing rates for board, care and clothing.

(2) Special payments include but, are not limited to expenditures for the following categories of items, costs and services:

- (i) special attire for proms, religious observances and graduation, and for circumstances or occasions, such as school attendance or scouting activities, in which uniforms are necessary items of clothing;
- (ii) school expenses such as books, activity fees, costs of field trips, club dues, school jewelry, school pictures, art supplies, and yearbooks;
- (iii) music, art, and dancing lessons, and the purchase or rental of items needed to take part in such
- (iv) gifts for birthdays, holidays and other special occasions;
- (v) extraordinary transportation and communication expenses. These expenses include:
 - (a) transportation provided by the foster parents for visits to the staff of an authorized agency, the foster child's birth parents, siblings who continue to reside with the birth parents, and to siblings who are placed separately with relatives or who are in foster care or adoption homes;
 - (b) payments to the birth parents, legal guardians, other relatives and significant others, for travel in excess of 50 miles (including the first 50 miles) to visit children in foster care;
 - (c) the costs of public transportation when it is necessary for school attendance if such costs are not reimbursed by the school district;
 - (d) other exceptional transportation required by the authorized agency or for agency approved reasons; and
 - (e) extraordinary telephone costs for communication with birth parents and siblings;

(vi) day care and baby-sitting services when necessary for the care and supervision of a child in foster care; **(See the interpretation in the following section.)**

(vii) special furniture/equipment for the care of children in foster care such as cribs, high chairs, and car seats; **(See the following interpretation.)**

(viii) window guards necessary to protect the safety of a foster child;

(ix) special recreational/hobby expenditures including travel expenses such as lodging, tools and the costs of transportation, entry or use fees, uniforms and materials. These expenditures are limited to \$400 per calendar year per foster child;

(x) compensation to a foster parent for the damage to and/or loss of personal property owned by the foster parent that is caused by the foster child in his or her care to the extent not covered by insurance. Requests for such compensation must be submitted in writing to the appropriate social services district in a manner required by such district within 30 days from the date the foster parents become aware of such damage or loss of personal property. The compensation herein provided for is limited to a maximum of \$1,000 per foster child per foster boarding home over a two year period from the date of placement in such home. Compensation of less than \$25 will not be granted;

(xi) day camp or residential summer camp costs, including registration and transportation expenses. Reimbursement for residential summer camp fees is available for a maximum of two weeks; **(See the following interpretation.)**

(xii) non-medical needs of a handicapped child, including special equipment or clothing that is not covered by medical assistance, which arise from the child's handicap; **(See the following interpretation.)** and

(xiii) costs of diapers for a child from birth to the date of the child's fourth birthday.

(3) Requests for special payments for items, costs, or services identified in the categories set forth in subdivision (2) of this section must be reviewed and approved by the social services district.

(4) A social services district may wish to make special payments to a foster parent for items, costs or services not otherwise identified among the categories set forth in subdivision (2) of this section. In order to be eligible for State reimbursement for such payments, the social services district must request approval from the department through the appropriate regional office of the Division of Services and Community Development. The regional office will notify the social services district whether the items, costs or services are equivalent to those in subdivision (2) of this section. This approval must be obtained before the payment can be made.

4. **Interpretation of Certain Special Payment Items**

a) **427.3(c)(2)(vi), Day Care and Baby Sitting**

1) **Background for the Day Care and Baby Sitting Policy**

The department allows both foster parents in certified home to be employed outside the home when suitable plans for the care and supervision of foster children are made for all times when such children are not in school. Some local social service districts have indicated serious problems in recruiting foster parents. One reason is that in many families both parents are employed full or part time. In order to recruit or maintain homes where foster parents (including single foster parents) are employed, the department allows foster care payments for the substitute adult care of foster children when the foster parent(s) are not available due to employment. Such adult supervision is intended to mean care provided by one or more adults in the foster parent's home, in the baby sitter's home or by a licensed day care center.

2) **Program Implications**

- a) The provision of day care and baby sitting for foster children is a policy that the social services district should consider when evaluating the circumstances of specific children.
- b) The policy of providing day care and baby sitting for foster children is intended to give agencies the means to recruit and maintain foster parents who, notwithstanding their employment, have the capacity to provide children with a secure environment as long as they are in need of temporary care.
- c) The quality of care provided to foster children in the form of day care and baby sitting services should be monitored as part of the normal casework process to assure the child's best interests and safety.
- d) Day care and baby sitting for foster children should be provided at the discretion of the social services district in a consistent manner. That is, each social services district which uses this policy should develop a plan outlining the circumstances warranting its use. Consistency in the use of this policy will help to assure confidence in the agency and its foster care programs.

3) **Fiscal Implications**

- a) Agency costs for day care and baby sitting services are special payments as found in 18 NYCRR 427.3(c) and are not to exceed limitations set forth in 18 NYCRR 415.9 for group day care settings.
- b) The social services district has complete discretion when considering whether to pay the foster parents for these services or directly pay the day care center or baby sitter as follows:
 - ◆ The social services district may directly pay the foster parents
 - ◆ The social services district may directly pay the day care center or baby sitter.
 - ◆ The social services district may directly pay the voluntary agency so that it can either make payment to the foster parent or directly pay the day care center or baby sitter.

- c) When day care and baby sitting, reimbursable as foster care, is paid directly to the service provider as a vendor payment, the service must meet the requirements of Part 415 of department regulations.

4) **Required Action**

- a) Each district deciding to establish a policy of compensating employed foster parents for costs of day care and baby sitting services shall advise all foster parents and applicants of the policy and have the policy included in the foster parent manual that is required by 18 NYCRR 443.3(p)
- b) If the decision is made to provide day care and baby sitting services for specific children, the plan for such services must be recorded in the foster family record, including the reason for provision of such services and their extent.
- c) Voluntary agencies must obtain the approval of the local social services district which pays for a child's care for any plan to compensate foster parents for the costs of day care and baby sitting services. This will assure that the service and payment is considered foster care for purposes of claiming and reimbursement.

b) **427.3 (c)(2)(vii), Special Furniture and Equipment**

Necessary, but irregular items such as cribs, high chairs and care seats can be purchased under the special payment procedures. However, the placing agency should retain ownership of these items in the event that the child is placed in another home or for the future use of other children in care.

c) **427.3(c)(2)(xi), Day Camp or Residential Summer Camp Costs**

1) **Background**

Section 398.6(1) of the Social Services Law gives each social services commissioner the power and duty in accordance with regulations of the department, to provide maintenance in a summer camp for children and minors who are being cared for away from their own homes as public charges when in the commissioner's judgment summer camp placement is advisable for the welfare of such children and minors.

The camp fees and related costs are special payments set forth in 18 NYCRR 427.3(c)(2)(xi). In addition, time spent in residential summer camps will be considered vacation for the child, thereby allowing the district to continue the foster parent per diem payment as a reimbursable absence from care as set forth in 18 NYCRR 628.3(a)(4)(iii).

2) **Program Implications**

- a) The provision of camp fees for foster children is a service that the social services district should consider when evaluating the circumstances of specific children. This may lead to an increase in the number of children attending summer camp.
- b) The policy change makes the local district responsible for the payment of camp fees and allows foster parents to retain their full monthly payment.
- c) The method of reimbursing the costs of summer camps for children residing in group care programs is different from what is described here. Camp fees are included in the maximum state aid rate, subject to the total direct care parameters.

3) **Required Action**

a) **Programmatic**

1. Summer camp placement should be provided at the description of the social services district in a consistent manner. Each district should develop a policy outlining the circumstances warranting its use. The district must advise all current and prospective foster parents of the policy and include it in the foster parent manual required by 18 NYCRR 443.3(p).
2. The district's prior approval is needed for a summer camp placement, and the need for such a placement must be documented in the family's Uniform Case Record and the foster family's records, including the reason for providing such services and the actual services authorized.
3. In accordance with 18 NYCRR 431.13, placement may only be made in summer camps operated by non-profit organizations, corporations or agencies having permits issued by the appropriate public health officials in whose jurisdiction the camps are located.
4. If a child is attending a formal summer school program based on educational needs, placement in a summer camp cannot be made until after the summer school program has ended.

b) **Fiscal**

1. Prior to the placement of a child in a summer camp that charges a fees, the authorized agency must attempt to find an appropriate camp at no charge.
2. The costs for day care or residential summer camp fees, including transportation to and from camps and registration fees, are to be considered special payments as found in 18 NYCRR 427.3(c)(2)(xi).
3. The social services district has complete discretion when considering how to pay for summer camps as follows:
 - ◆ The social services district may directly pay its foster parent.
 - ◆ The social services district may directly pay the summer camp.
 - ◆ The social services district may directly pay the voluntary agency so that it can either pay the summer camp or directly pay the summer camp. If this method is chosen, the details must become part of the model contract for the purchase of foster care service.
4. Reimbursement for summer camp fees for foster children will be allowed and its costs reimbursed through either Title IV-E foster care or Child Welfare (CW) expenditures. The determination of whether the child is IV-E or CW will be in accordance with the usual formulas.
5. Reimbursement for residential summer camp fees is available for a maximum of two weeks.
6. Voluntary agencies must obtain the prior approval of the social services district that pays for a child's care for any plan to compensate foster parents for the costs of summer camp and to continue the foster care payment as a reimbursable absence for vacation. This will ensure that the service and payment are considered foster care for purposes of claiming and reimbursement. It must also be made part of the district's local purchase of service agreement (model contract) with the voluntary agency.

4) **Additional Information**

The social services district may continue payments to its foster parents or to the voluntary agency as a reimbursable absence from care for vacation while the child is attending a residential summer camp. This is provided for in 18 NYCRR 628.3(a)(4)(iii).

When a child is at a residential summer camp, each 24 hour day may be claimed as vacation, including weekend days. On the day the child enters camp and on the day the child returns from camp, the child is considered to be in care. For example, if the child enters camp on a Saturday and returns to the foster home on the following Saturday, both Saturdays would be claimed as regular days in care. Sunday, Monday, Tuesday, Wednesday, Thursday and Friday would be claimed as reimbursable absence days of care and labeled vacation days on the appropriate billing forms.

Voluntary agencies are to report the costs for summer camp in Account 45, Special Payments (Boarding Home) on DSS 2652, Report of Actual Expenditures, under the family boarding home cost center.

d) 427.3(c)(2)(xii) Non-medical Needs of a Handicapped Child

The intent of allowing this item is to provide reimbursement in those situations where there is a need for special equipment or clothing which arises from the child's handicap and cannot be covered by Medical Assistance. For example, a developmentally disabled child might need some training aids which would be used by the foster parents in teaching skills training.