



KNOW YOUR RIGHTS

Child Care Services for Public Assistance Recipients



Child Care Services for Public Assistance Recipients and Applicants 18 NYCRR§415.8(a)

The Department of Social Services (“DSS”) “must promise child care services to a family who has applied for or is in receipt of public assistance when” ALL of the following commitments are met:

- Child care “services are needed for a child under 13 years of age” and
- Child care services are necessary “to enable the child’s custodial parent or caretaker relative to participate in activities required” by DSS.

Child Care Services and DSS Work Requirements 18 NYCRR § 415.8(b)-(l)

a. Locating Necessary Child Care to Enable Completion of Work Requirement

It is the parent or caretaker relative’s duty to find and secure child care services necessary to enable the completion of a DSS work requirement. If the parent or caretaker relative is unable to find and secure child care services so that the individual can complete the work requirement, the parent or caretaker relative must do the following:

- Notify DSS of attempts to secure child care.
- Request additional assistance from DSS to secure child care.
 - DSS should refer the individual to the “child care resource and referral agency” and/or
 - Provide contact information (i.e. name, address, and telephone number) for “eligible providers.”
- Follow-up with referrals received from DSS.
- Notify DSS of outcome of follow-up with referrals.

b. Exclusion from Work Requirement Due to Inability to Secure Child Care

In order to be excluded from the DSS work requirement due to an inability to secure child care, the following must all be true:

- **Attempts to Secure Child Care Made by Parent or Caretaker Relative:** A parent or caretaker relative must follow the steps outlined above in “Locating Necessary Child Care to Enable Completion of Work Requirement”
- **“Demonstrated Inability” to Locate Necessary Child Care Exists Despite Referrals from DSS and Referring Agencies:** DSS must determine a “demonstrated inability” exists. To make their determination, a parent or caretaker relative must submit an attestation to DSS regarding 1) informal and formal care providers contacted and 2) why the provider(s) and provider(s) from any referrals from DSS or other referring agency are “not appropriate, accessible, suitable, affordable or a reasonable distance from the individual’s home or work site.” DSS will review and verify the attestation(s) to make their determination.
 - Note: If there is a “demonstrated inability” established, DSS is to offer the parent or caretaker relative “two choices of eligible child care providers[,] at least one of which must be a licensed or registered provider.” Public assistance may be terminated or reduced if the parent or caretaker relative:
 - 1) is unwilling to accept either provider,
 - 2) cannot show, per DSS’ determination, “that such child care is not appropriate, accessible, suitable, affordable or a reasonable distance from the individual’s home or work site[,]” and
 - 3) the parent or caretaker relative does not comply with the work requirements.

c. Reduction or Termination of Public Assistance for Failure to Comply with Work Requirement Due to Lack of Child Care

DSS “may not reduce or terminate public assistance to an individual or an individual and the family of such individual based on a refusal of the individual to comply with applicable work requirements if the individual is a custodial parent or caretaker relative of a child under 13 years of age and the individual has a demonstrated inability, as determined by the social services district [DSS], to obtain child care needed to comply with such work requirements due to” the **unavailability** of ALL of the following:

- “**Appropriate** and **accessible** child care within a **reasonable distance** from individual’s home or work site;”
- **Suitability** “of **informal child care** by a relative or under **other arrangements**; and”
- “**Appropriate** and **affordable formal child care** arrangements.”

Additional Information (18 NYCRR § 415.8(c)(2) and 18 NYCRR § 415.8(k)(1)-(2))

If an exemption from the work requirement is received from DSS due to a “demonstrated inability to locate needed child care for his or her applicable child(ren)”, remember the following:

- Limited Time: Exception is only valid “for so long as that demonstrated inability continues to exist.”
- Updates to DSS: Periodic attestations will need to be submitted to DSS regarding continued attempts to locate childcare services.
- 60 Month Limit on Benefits: “Family assistance received during the time the parent or caretaker relative receives an exception from the work requirements...will count toward the family’s 60 month limit on receiving such benefits.”

Legal Assistance

If you need legal assistance and live in Westchester, Putnam, Rockland, Orange, Sullivan, Dutchess, or Ulster County, please contact Legal Services of the Hudson Valley (“LSHV”) to complete an intake for possible representation. Please note that completing an intake does not guarantee services or representation will be provided. You can reach LSHV’s intake line at 1-877-574-8529.



About this Guide

This guide was created by Legal Services of the Hudson Valley with support from the Legal Services Corporation.

To read all of the guides in this series, please visit www.LSHV.org

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