



Office of Children and Family Services

ANDREW M. CUOMO
Governor

SHEILA J. POOLE
Commissioner

June 11, 2021

Administration for Children and Families
Office of Child Care
Office of Planning, Research, and Evaluation
Attn: ACF Reports Clearance Officer
Submitted via e-mail: infocollection@acf.hhs.gov

Re: 86 FR 18985

Proposed Information Collection Activity; Child Care Improper Payments Data Collection Instructions

To Whom it May Concern:

The New York State Office of Children and Family Services (NYS OCFS) is pleased to submit the following comments in response to the above-referenced proposed information collection activity that was published in the Federal Register, 86 FR 18985, on April 12, 2021.

As way of background, NYS OCFS is required to conduct an Improper Payment Review of the Child Care and Development Fund (CCDF) payments and submit a State Improper Payments Report (ACF-404) to the Department of Health and Human Services (HHS) on a tri-annual basis. The methodology for this review is based on the Child Care Improper Payments Data Collection Instructions (DCI) provided by the HHS Office of Child Care. NYS OCFS, as a Lead Agency, is providing the following comments to the proposed changes to the DCI.

NYS OCFS found that the Data Collection Instructions do not provide clear standards or sufficient detail on criteria for administrative and payment errors. As an example, failure to document the attestation that family resources do not exceed \$1 million is left to the discretion of the states to determine whether or not it is a payment or administrative error. This lack of a consistent framework will increase the burden on lead agencies in fulfilling oversight activities and program integrity efforts due to a lack of clear and consistent performance measures. In addition, NYS OCFS recommends standardizing the review process based on federal criteria and excluding state regulations to the degree practicable. If the review process was standardized on federal criteria this would provide more meaningful measures to be used for comparisons among states, as well as more accurate assessments of states' compliance with objectives established by the federal government. Therefore, the lack of standardization on these two areas discussed may result in reduced reliability of data used for state-to-state comparisons and the aggregated error rate at the national level.

NYS OCFS wishes to share a recommendation regarding the Missing and Insufficient Documentation Table (MID Table). NYS OCFS strongly believes that the MID Table should be included as an appendix. The MID Table provides a standardized format to assess the case record to evaluate whether eligibility was correctly determined and whether the subsidy payment was made in the correct amount. The primary function of the table is to identify errors caused by insufficient documentation and record mitigation efforts using other government resources. The embedded placement of this table in the Record Review Worksheet (RRW), which has a different structure than the rest of the report, limits its functionality in automated applications. Whereas if the MID table is included as an appendix, then this will allow the user flexibility in answering the required questions more fully and simplify application development.

Lastly, in response to the request for comment on NYS OCFS' burden estimates of the proposed collection of information, NYS OCFS finds the estimates to be lower than the experience of New York State. The most recent Improper Payment Review (IPR) performed by NYS OCFS required 3,617 hours of professional staff time. Of the 3,617 hours, 417 hours were related to sampling decisions, assurances and fieldwork preparation. Please note, other items on the Annual Burden Estimates table in the Federal Register Notice were not individually tracked by this

agency. With respect to the next IPR, NYS OCFS anticipates the total professional effort to be approximately 4,000 hours. This estimate includes updates that will be made to the automated tool for completing the review workbooks and summarizing results, as well as staff training prior to case selections.

In conclusion, thank you for the opportunity to provide these comments and share our recommendations. We hope our comments will be thoughtfully considered. Should you have any questions or concerns, we would be pleased to provide additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Janice Molnar", written in a cursive style.

Janice M. Molnar, Ph.D.
Deputy Commissioner
Division of Child Care Services
New York State Office of Children and Family Services

CC: Sheila Poole, Commissioner of the Office of Children and Family Services
Suzanne Miles-Gustave, Deputy Commissioner for Legal Affairs & General Counsel
Brendan G. Schaefer, Director, Office of Audit and Quality Control