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Effects of Child Removal on Housing and Benefits in New York City

Homeless Shelter	<p>After 30 days, if you are living in a family shelter and no longer have children in your household, you will be moved to a single shelter or a couple’s shelter if you have a domestic partner or spouse.ⁱ Pregnant mothers can remain in family shelters. You may be able to advocate with your shelter case manager for an extension of this time period if you expect that the children will return home soon (for example, if you are requesting a 1028 hearing). Ask your CFR team for assistance on this, and if helpful, your ACS worker. You may want to request a pre-discharge hearing and/or a fair hearing to contest the transfer.</p>
NYCHA or Section 8 (NYCHA, HPD, HCR)	<p>There is NO need to remove a child from your NYCHA or Section 8 household composition when they are placed in foster care unless there is a final determination that they will not return to your care.ⁱⁱ</p> <p>If you receive any income specifically for a child in foster care (ie. SSI) that will be reduced when the child is in foster care, you should request an interim recertification to notify NYCHA (or the agency administering your Section 8) that your income has changed in order to reduce your rent.</p> <p>For NYCHA apartments, you can go to the management office directly and submit a letter describing your change in income or you can submit the interim recertification on the NYCHA online self-service portal.</p> <p>*Make sure to get a receipt or stamped copy of any document you provide NYCHA or Section 8 in person!*</p>
Children’s SSI Benefits	<p>You <u>must</u> notify the Social Security Administration (SSA) when any child for whom you are payee is placed in foster care. Even though Social Security may be slow to transfer payments once notified, it is important that you do not use those funds except for the current or future use of the child who receives SSI. If benefits continue, you should save or invest any payments received for the child’s future use. Generally, it is important that you keep records of how you spend SSI payments in order to make an accounting in your annual report to SSA.ⁱⁱⁱ</p>
Public Assistance including FHEPS and CityFHEPS Vouchers	<p>You <u>must</u> notify HRA that the children are in foster care <u>within five days</u> “of when it becomes clear” that they will be out of your care for 45 days or more.^{iv} (Ie. if the children are removed from your care and you are not litigating a 1027/1028 hearing for them to return home.) HRA will then remove the children from your household composition in the “basic needs” grants in any cash assistance case or SNAP case. However, if you receive any rental/heat assistance, FHEPS or CityFHEPS voucher, they should remain on your shelter grant so you can maintain your housing as long as your permanency goal remains “return to parent.”^v</p> <p>To verify the permanency goal, ask your ACS worker to supply a letter stating the current permanency goal or use a recent permanency report to show the goal remains “return to parent.” If HRA is resistant, show them policy directive 19-06 ELI and ask your CFR team to contact the Civil Unit for assistance.</p> <p>Note that once your children are in foster care, you cannot add them to your case if they were not on the case before they were removed.</p>

ⁱ 18 NYCRR § 900.15(d) (“If, as a result of the discharge or transfer of a family member from a facility or a pregnant person no longer remaining pregnant when there are no other children in the household, the family members or member remaining in the facility no longer constitute a family as defined in section 900.2 of this Part, the social services district must make appropriate arrangements for those persons to be housed elsewhere in accordance with subdivision (c) of this section and with all other applicable provisions of this Title, unless such discharge is based on a discontinuance of temporary housing assistance pursuant to section 352.35 of the)’Title.”); 18 NYCRR § 900.15(c)(1) (“Whenever a family member is to be transferred or discharged, the social services district must ensure that the action to be taken is appropriate to the health, safety, and needs of that family member and the family. Such action may include referral to appropriate medical services, child welfare agency, adult protective or law enforcement agency, or similar entity. All reasonable efforts must be made to keep the family intact.”); § 900.15(c)(2)(“ Prior to any discharge or transfer of a family member pursuant to subdivision (a) or (b) of this section other than a discharge based upon a discontinuance of temporary housing assistance as provided for in section 352.35 of this Title, social services district staff must advise the remaining family members of all housing options available to them...”). **18 NYCRR § 900.15 also provides for the right to a pre-discharge hearing and a fair hearing.** See also DHS Policy 03-504 on Involuntary Transfers (issued January 1994).

ⁱⁱ 24 CFR § 5.403(2)(i) (“a child who is temporarily away from the home because of placement in foster care is considered a member of the family”).

ⁱⁱⁱ See Michael A. O’Connor, *A Guide to SSI and Social Security Benefits for Children and Youth in Out-of-Home Care*, Casey Family Programs (2001) 5, <https://ocfs.ny.gov/main/publications/eligibility/29%20A%20Guide%20to%20SSI.pdf>.

^{iv} NY SSL § 131(15) (“Notwithstanding any provision of this chapter or other law to the contrary, no public assistance shall be given to or for any minor child who has been or is expected to be absent from the home of his or her parent or other caretaker relative for a consecutive period of forty-five days or more without good cause as set forth in regulations of the department, nor shall any assistance be given to any parent or other caretaker relative who fails to notify the social services district of the absence of the minor child within five days after it becomes clear to the parent (or relative) that the child will be absent for a consecutive period of forty-five days or more. Good cause shall include absence for placement in foster care if the goal set forth in the child service plan under section four hundred nine-e of this chapter is the return of the child to a member of the household, or attendance at school or hospitalization, if it is in the best interests of the child to return home and return is expected within a reasonable time.”); 18 NYCRR § 369.4(c)(2);

^v 18 NYCRR § 352.30(b) (“For purposes of determining the amount to be included in the standard of need for shelter under section 352.3 of this Part and fuel for heating under section 352.5 of this Part for persons in permanent housing, if permitted under Federal law and regulations, the public assistance household includes any child entering foster care who was eligible for and in receipt of assistance and care as a member of the household in and for the month of entry into foster care. Such child must be included in the household pending preparation of the child services plan pursuant to Part 428 of this Title and at any time thereafter that the child remains in foster care and the child services plan includes a goal of discharge of the child to a member of the household. See also HRA Policy Directive 19-06-ELI (issued June 19, 2019).