



Office of Children and Family Services

KATHY HOCHUL
Governor

SHEILA J. POOLE
Commissioner

October 13, 2021

Dear Provider,

As a child care professional, you play a critical role in protecting the health and safety of the children in your program. For over a year COVID-19 has challenged us to adapt and change in ways we never imagined possible. While coronavirus remains a real threat, we know that there are countless things that pose a risk to young children. One of these is allergies. The US Centers for Disease Control and Prevention (CDC) estimates that 1 in 13 children is impacted by allergies. Sometimes, allergies are known. Other times, they are not known and are discovered unexpectedly. Either way, allergies have the potential to create a life-threatening situation. Anaphylaxis (a severe allergic reaction) must be treated right away. By gaining knowledge about allergies, prevention of anaphylaxis, and what action is to be taken during a medical emergency, child care providers can save lives. Please read this information carefully.

REGULATION

In 2017, New York Public Health Law Section 3000-c was amended to allow legally exempt group child care programs to stock non-patient specific epinephrine auto-injectors. In 2019, New York Public Health Law Section 2500-h was amended to codify “Elijah’s Law.” The law is named after 3-year-old Elijah Silvera from New York City who was given a grilled cheese sandwich while at day care despite having a known severe dairy allergy. After Elijah went into anaphylaxis his family was not told what he had eaten and 911 was not called. Elijah died in November 2017. To implement these laws, OCFS filed a Notice of Proposed Rulemaking, which appeared in the State Register on July 9, 2021, with regulatory changes to your child care program – valuable, potentially life-saving changes – that are intended to prevent further tragedy. The rule amends 18 NYCRR Part 415 to authorize legally exempt group programs to stock non-patient specific epinephrine auto-injectors provided the program complies with all requirements of New York Public Health Law Section 3000-c, and changes the schedule of visits by a health care consultant, for programs administering medication, from every two years to every year. These regulations take effect on October 13, 2021.

CHANGES TO THE HEALTH CARE PLAN

In accordance with the Notice of Rulemaking, the Health Care Plan for Legally Exempt Group Child Care Programs (OCFS-LDSS-4703) has been revised. English and Spanish versions can be found at: <https://ocfs.ny.gov/search/docs.php?type=1&topic=3>. In addition to the change in review cycle for programs that administer medication from two years to one, any program that opts to stock

epinephrine auto-injectors must designate in the plan one or more staff who will be responsible for the storage, maintenance, control and general oversight of any stock epinephrine auto-injectors acquired by the program. The plan must also state that staff may only use stock epinephrine auto-injectors, without a patient-specific prescription, for emergency treatment of a child appearing to experience anaphylactic symptoms after successfully completing an approved training course or if directed in a specific instance to use such device by a health care practitioner. The program is not required to complete a new plan in its entirety. Programs are strongly encouraged to update their Health Care Plan as soon as possible and are required to update it before acquiring and using non-patient specific epinephrine auto injectors. Your enrollment agency and/or health care consultant (as applicable) will be reviewing the Health Care Plan to ensure compliance with these new requirements.

TRAINING

OCFS has developed an online training that provides information about common allergies and ways to avoid exposure to prevent reactions. The training also discusses the signs and symptoms of allergic reactions, including when to use a non-patient specific epinephrine auto-injector. This one-hour online training is now available to all child care providers at no cost, and satisfies the training requirement for programs opting to stock non-patient specific epinephrine auto-injectors! All caregivers are encouraged to visit <https://www.ecetp.pdp.albany.edu/mytraining/guest/Login.aspx> and take this new course. Each individual who completes the training will receive one hour of training credit toward their annual training requirement. Please check it out!

For more information about the prevention of anaphylaxis and the response during an anaphylaxis emergency in a child care program, please refer to Anaphylaxis Policy for Child Day Care Programs on our website, <https://ocfs.ny.gov/programs/childcare/policies/>.

When it comes to the health and safety of children, we cannot be too careful, or too prepared. Thank you for your careful review of this valuable information, and for taking the time to make the necessary adjustments to your program. If you have any questions, please reach out to your enrollment agent.

Sincerely,



Janice Molnar, Ph.D.

Deputy Commissioner

Division of Child Care Services