§ 7.37-a Transitional care.

(a) For purposes of this section, "transitional care" shall mean care and maintenance of persons:

1. who were placed in foster care by a social services district pursuant to article six of the social services law and who have become twenty-one years of age, or who were placed in a residential educational placement by a school district pursuant to article eighty-nine of the education law and who are no longer eligible for free educational services because they have completed the school year in which they became twenty-one;

2. who were disabled and in need of residential care prior to becoming age twenty-one or prior to becoming ineligible for free education services and who have since remained continuously disabled and continuously in need of residential care;

3. who became twenty-one or became ineligible for free educational services prior to July first, nineteen hundred ninety-six;

4. with respect to whom the office has approved a plan of continued out of home care for the person but has not yet identified a currently available appropriate placement;

5. whose residential needs can be met by the facility in which the persons resided prior to becoming age twenty-one or becoming ineligible for free educational services; and

6. who on July first, nineteen hundred ninety-eight are in receipt of transitional care, or who have continuously remained in the foster care or residential education placement where they had received transitional care.

(b) The office shall expend funds to provide transitional care as described in this section.

(c) Expenditures pursuant to subdivision (b) of this section shall be approved only if and to the extent that:

1. the office has an agreement with the residential facility for continued care of qualified persons at rates which are no greater than the rates that would have been available if such persons were under age twenty-one;

2. the facility understands and agrees to the right of the office and such other state offices as the office may deem appropriate to visit and inspect the facilities and residents and to have access to any records or information necessary to assure that the care provided is safe and appropriate to the needs of any persons residing in the facility for whom transitional care is being provided;

3. the payments are made subject to any other requirements identified by the office; and

4. an application for supplemental security income benefits has been submitted, and any supplemental security income benefits received by the person, in excess of any reserved personal allowance amounts, shall be applied to reduce the cost of transitional care.

(d) The office shall periodically forward to each facility that is providing transitional care a statement of the obligations the facility assumes by accepting payment pursuant to this section. The statement of obligations shall be established by the office and provided to each facility.

(e) The office shall discontinue payment for transitional care, in accordance with procedures established by the office, for any individual:

1. who has been offered an appropriate, available adult placement or adult services, when such an offer has been made and accepted, or has been made and upheld by an administrative hearing, or has been made and the time to request an administrative appeal has expired;

2. whose continued placement in a child care facility or residential school may adversely affect the health, safety or welfare of children residing in the facility, based upon a determination by the education department, or by the department of social services, and that the office

will, if necessary and appropriate, offer an adult placement to the individual on an expedited basis; or

3. who is residing in a facility which has failed or refused to meet its obligations pursuant to this section as a condition of funding, and that the office will, if necessary and appropriate, offer an adult placement to the individual on an expedited basis.