*** § 153-k. Funding for children and family services.** 1. (a) Expenditures made by social services districts for child protective services, preventive services provided, as applicable, to eligible children and families of children who are in and out of foster care placement, independent living services, aftercare services, and adoption administration and services other than adoption subsidies provided pursuant to article six of this chapter and the regulations of the department of family assistance shall, if approved by the office of children and family services, be subject to sixty-five percent state reimbursement exclusive of any federal funds made available for such purposes, in accordance with the directives of the department of family assistance and subject to the approval of the director of the budget.

(b) Claims for preventive services and independent living services submitted by a social services district for reimbursement may be comprised of in-kind, indirect services, and non-tax levy funds, including but not limited to privately donated funds, up to the same amount as the social services district's claims for such services during federal fiscal year nineteen hundred ninety-eight--ninety-nine were comprised of in-kind, indirect services and non-tax levy funds; provided, however, that up to seventeen and one-half percent of a social services district's claims for preventive services and independent living services may be comprised of privately donated funds if the percentage of its claims comprised of privately donated funds was less than seventeen and one-half percent during federal fiscal year nineteen hundred ninety-eight--nineteen hundred ninety-nine. Federal reimbursement of such claims shall be available only to the extent permitted by federal law or regulations.

2. (a) Notwithstanding the provisions of this chapter or of any other law to the contrary, eligible expenditures by a social services district for foster care services shall be subject to reimbursement with state funds only to the extent of annual appropriations to the state foster care block grant. Such foster care services shall include expenditures for the provision and administration of: care, maintenance, supervision, tuition, and transportation costs related to the education of a foster child or youth incurred in accordance with paragraph c of subdivision four of section thirty-two hundred forty-four of the education law;

supervision of foster children placed in federally funded job corps programs; and care, maintenance, supervision and tuition for adjudicated juvenile delinquents and persons in need of supervision placed in residential programs operated by authorized agencies and in out-of-state residential programs; except that, notwithstanding any other provision of law to the contrary, reimbursement with state funds pursuant to the state foster care block grant shall not be available for tuition expenditures for foster children, including persons in need of supervision and adjudicated juvenile delinquents, made by a social services district located within a city having a population of one million or more. Social services districts must develop and implement children and family services delivery systems that are designed to reduce the need for and the length of foster care placements and must document their efforts in the multi-year consolidated services plan and the annual implementation reports submitted pursuant to section thirty-four-a of this chapter.

(b) State reimbursement to each social services district shall be limited to the district's allocation of the foster care block grant. The state funds appropriated for the foster care block grant shall be apportioned among the social services districts by the office of children and family services based on the district's claiming history and other factors. Such apportionments shall be subject to the approval of the director of the budget.

(c) Any portion of a social services district's apportionment from the foster care block grant for a particular state fiscal year that is not claimed by such district during that state fiscal year may be used by such district for preventive services, independent living services or aftercare services claimed by such district during the next state fiscal year up to the amount remaining from the district's foster care block grant apportionment; provided, however, that any claims for preventive services, independent living services or aftercare services during the next state fiscal year in excess of such amount shall be subject to state reimbursement pursuant to subdivision one of this section. Any claims submitted by a social services district for reimbursement for a particular state fiscal year for which the social services district does not receive state or federal reimbursement during that state fiscal year may not be claimed against that district's block grant apportionment for

the next state fiscal year.

3. To the extent that monies are made available to the commissioner of the office of children and family services from the children and family services quality enhancement fund established pursuant to section ninety-seven-yyy of the state finance law, the office of children and family services is authorized to conduct activities to increase the availability and/or quality of children and family services programs which may include, but not be limited to, staff recruitment, retention and training activities, research projects, and targeted services expansion and/or demonstration projects to test innovative models for service delivery which may include such areas as health, mental health and substance abuse services. Notwithstanding sections one hundred twelve and one hundred sixty-three of the state finance law, such activities shall be conducted without competitive bid or request for proposal.

4. (a) A social services district, either individually or in combination with other social services districts, may establish managed care systems or other systems to provide children and family services other than child protective services investigations, in accordance with applicable laws and regulations. Such a system may include, but not be limited to, the establishment of capitated rates for service provided to children to prevent the placement of such children into foster care and to discharge such children from foster care to suitable, permanent, safe homes in a more timely manner through preventive services, intensified discharge planning, pre-adoptive services, after-care services and/or post-adoption services.

(b) Social services district payments to case managers or public or private service providers under such a system may be based on reimbursement rates established by the office of children and family services pursuant to section three hundred ninety-eight-a of this chapter, capitated rates or other payment mechanisms for all or a portion of the services, either separately or combined. To facilitate payments to case managers or providers, the office of children and family services may establish procedures for standardizing payments to managers or providers that enter into agreements with more than one

social services district.

(c) Under such a system, a social services district may delegate responsibility for case management services to case managers or providers in a manner designed to afford case manager or provider accountability through the incorporation of quality control standards that provide appropriate monitoring of these services such as recognized accreditation mechanisms, performance audits by the social services district or other means.

(d) Under such a system, a social services district, in a purchase of service agreement for preventive services with an authorized agency, may delegate to such authorized agency the responsibility for approving and paying rent subsidies or assistance under paragraph (c) of subdivision five and/or subdivision seven of section four hundred nine-a of this chapter.

(e)(i) A social services district must obtain the office's prior approval of its plan for establishing and implementing such a system, in accordance with guidelines established by the office of children and family services.

(ii) Such a plan may include requests for a waiver of any statutory or regulatory requirements established pursuant to sections thirty-four-a, four hundred nine-d and four hundred nine-e of this chapter regarding the form, content, development, or amendment of the child welfare services plan component of the multi-year services plan and the annual implementation reports, family services plans and uniform case records.

(iii) Any request by a social services district for a waiver shall identify the specific statute or regulation to be waived, and include a justification for the waiver and alternative actions to be taken by the social services district to satisfy the purposes of the statute or regulation. The office of children and family services may grant any such waiver request, subject to the approval of the director of the budget, where the social services district applying for the waiver demonstrates a reasonable administrative or programmatic justification for the waiver. The potential fiscal impact of the waiver upon federal, state and local governments shall be evaluated by the office of children and family services as part of its review of the request for a waiver. The office of children and family services may impose durational and other reasonable conditions if an approval of the waiver is granted.

Where a waiver is granted, the office of children and family services shall have the authority to establish alternative standards to be followed by social services officials. The office of children and family services may not grant a waiver that would fail to comply with applicable federal statutory or regulatory standards. The social services district may not revise local practice or policy unless and until the office of children and family services approves the waiver.

(iv) The office of children and family services shall provide notice to the governor and the legislature of each plan that is approved including a brief description of the plan and any waivers granted and any alternative standards established. The office shall provide an annual report to the governor and the legislature regarding the implementation of all approved plans during a calendar year by January thirty-first of the following year.

5. (a) Social services districts shall conduct eligibility determinations and submit claims for reimbursement in such form and manner and at such times and for such periods as the department of family assistance shall determine.

(b) When certified by the department of family assistance, state reimbursement shall be paid from the state treasury upon the audit and warrant of the comptroller out of funds made available therefor.

(c) The department of family assistance is authorized in its discretion to make advances to social services districts in anticipation of the state reimbursement provided for in this section.

6. (a) Payment of state reimbursement and advances shall be made to the fiscal officer of the social services district entitled thereto pursuant to the provisions of this chapter.

(b) Any inconsistent provision of the law or regulation of the department of family assistance notwithstanding, state reimbursement shall not be made for any expenditure made for the duplication of any grant or allowance for any period.

7. The office of children and family services shall not reimburse any claims for expenditures for those children and family services set forth in subdivisions one and two of this section that are submitted more than

twenty-two months after the calendar quarter in which the expenditures were made.

8. Claims submitted by a social services district for reimbursement shall be paid after deducting any expenditures defrayed by fees, third party reimbursement, and any non-tax levy funds including donated funds that exceed the amount that may be claimed for state and federal reimbursement pursuant to paragraph (b) of subdivision one of this section.

9. Notwithstanding any other provision of law, the state shall not be responsible for reimbursing a social services district and a district shall not seek state reimbursement for any portion of any state disallowance or sanction taken against the social services district, or any federal disallowance attributable to final federal agency decisions or to settlements made, on or after July first, nineteen hundred ninety-five, when such disallowance or sanction results from the failure of the social services district to comply with federal or state requirements, including, but not limited to, failure to document eligibility for the federal or state funds in the case record; provided, however, if the office of children and family services determines that any federal disallowance for services provided between January first, nineteen hundred ninety-nine and May thirty-first, nineteen hundred ninety-nine results solely from the late enactment of the state legislation implementing the federal adoption and safe families act, the state shall be solely responsible for the full amount of the disallowance or sanction. This provision shall be deemed to apply both prospectively and retroactively regardless of whether the disallowance or sanction is for services provided or claims made prior to or after April first, two thousand two.

10. (i) In accordance with regulations developed by the office of children and family services, the office shall measure each district's compliance with the federal child welfare outcome standards beginning no later than twenty months after the effective date of this section. The office is authorized to impose fiscal penalties against a social services district that fails to substantially comply with the outcome

standards or to make sufficient progress towards complying with the outcome standards after developing and implementing a corrective action plan in the time and manner approved by the office. The imposition of a fiscal penalty shall be subject to an appeal process set forth in regulation. Any fiscal penalties received by the office of children and family services pursuant to this subdivision shall be deposited to the credit of the children and family services quality enhancement fund established pursuant to section ninety-seven-yyy of the state finance law. For social services districts in counties with less than fifteen thousand children under the age of eighteen, the office may waive the fiscal penalties and the need for a corrective action plan if the failure to substantially comply with the outcome standards was based on extraordinary circumstances. The office may provide fiscal incentives to social services districts with high performances on the federal child welfare outcome standards. A social services district may pass on to its contract agencies some portion of the fiscal penalties or fiscal incentives that may be attributable to such agencies.

(ii) The office shall provide an annual report to the governor and the legislature detailing: each county's performance on the outcome standards, the amount of fiscal penalties imposed against each county, and the amount of fiscal penalties collected from each county. Said report shall be delivered to the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee annually on a calendar year basis, by March fifteenth of the following year.

11. The office of children and family services shall submit a preliminary report to the governor and the legislature on or before the thirty-first day of December, two thousand four providing preliminary data and information on the implementation of this section, and shall submit a final report by the fifteenth day of August, two thousand five assessing the implementation of and the outcomes resulting from the children and family services financing provisions established by this section through the thirtieth day of June, two thousand five. The final report shall include information regarding services delivery trends under the financing structure set forth in this section and innovative models of service provision to be considered for replication.

12. Notwithstanding any law to the contrary, on or after January first, two thousand twenty, the state shall not reimburse for the cost of any placement of persons in need of supervision under article seven of the family court act.

* NB Repealed June 30, 2027