§ 410. Day care; when public welfare official to furnish. 1. A public welfare official of a county, city or town is authorized, provided funds have been made available therefor, to provide day care at public expense for children residing in his territory who are eligible therefor pursuant to provisions of this title. Such care may be provided only in cases where it is determined, under criteria established by the office of children and family services, that there is a need and that such care is in the best interest of the child and parent; provided however that the public welfare official shall not be required to limit authorized child care services strictly based on the work, training, or educational schedule of the parents or the number of hours the parents spend in work, training, or educational activities. Where the family is able to pay part or all of the costs of such care, payment of such fees as may be reasonable in the light of such ability shall be required.

2. The furnishing of such care is hereby declared to be a proper municipal purpose for which the monies of a county, city or town may be raised and expended. A county, city or town may receive and expend monies from the state, the federal government or private individuals, corporations or associations for furnishing such care.

3. (a) Day care under this title shall mean care in a group facility, in a family home, in a group family day care home or in a day care center project as defined in title five-a of this article for part of the day. Day care may be provided by a social services official either directly or through purchase. Purchase of such care may be made only from a private non-profit corporation or association except when the commissioner shall have approved the purchase of such care from private proprietary facilities by a social services official who has demonstrated that conveniently accessible non-profit facilities are inadequate to provide required care. Purchase of such care may also be made from a school district in accordance with state and federal requirements pursuant to a contract between the social services district and the school district.

(b) Care under this title may be provided only in group facilities, family homes, group family day care homes or in a day care center project as defined in title five-a which are operated in compliance with

applicable regulations of the office of children and family services. A group facility shall include a public school which provides day care pursuant to this subdivision.

(c) Except as hereinafter provided, care under this title shall not include care, supervision, training or participation in kindergartens, nursery schools or other schools, classes or activities operated or conducted by public or private schools. However such care shall include day care provided by a school district pursuant to the provisions of this subdivision and subdivision thirty-three of section sixteen hundred four of the education law in accordance with a contract entered into between such school district and a social services district.

(d) The commissioner shall encourage social services districts and day care providers to offer flexible hours of day care. Each provider may provide a flexible schedule in accordance with the rules and regulations of the commissioner and an application for day care services shall not be denied solely by reason of the time of day or days that care will be required provided that an available day care provider can accommodate such hours or days of care in accordance with such regulations.

4. The provisions of this title shall not apply to child care assistance provided under title five-C of this article.