



## Office of Children and Family Services

ANDREW M. CUOMO  
Governor

SHEILA J. POOLE  
Commissioner

March 15, 2021

Dear Provider,

This letter serves to communicate important new requirements regarding your child care program. Please read this information carefully.

In 2019 Governor Cuomo signed new legislation called "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. Implementation of Elijah's Law requires changes to your child care program, valuable, potentially life-saving changes, that are intended to prevent further tragedy.

As a child care professional, you play a critical role in protecting the health and safety of the children in your program. The US Centers for Disease Control and Prevention (CDC) estimates that 1 in 13 children is impacted by allergies. Allergies have the potential to create a life-threatening situation. Anaphylaxis 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.

### **POLICY**

Attached to this email is the **Anaphylaxis Policy for Child Day Care Programs**. The policy sets guidelines to be followed by child day care programs for both the prevention of anaphylaxis and during an anaphylaxis emergency. The policy is posted in English and Spanish on the OCFS website at [:https://ocfs.ny.gov/programs/childcare/policies/](https://ocfs.ny.gov/programs/childcare/policies/).

Elijah's Law requires child care programs to be in compliance with the policy six months from the date of distribution. OCFS strongly encourages child care programs to make the required policy updates as soon as possible, and will begin monitoring for compliance on September 15, 2021.

### **FORMS**

Child care providers are required to complete the OCFS-6029 Individual Allergy and Anaphylaxis Emergency Plan for any child with a known allergy. The provider must work with the parent/guardian and the child's health care practitioner to develop written instructions outlining what the child is allergic to, prevention strategies, and steps that must be taken if the child is exposed to a known allergen or is showing symptoms of exposure. The plan must be reviewed upon admission to the child care program, annually thereafter, anytime there are staff or volunteer changes, and/or anytime information regarding the child's allergy or treatment changes. This form must be attached to the child's LDSS-7006 Individual Health Care Plan for a Child with Special Health Care Needs. Both of these forms are attached to this email.

**Anaphylaxis Policy for Child Day Care Programs also requires updates to the program's Health Care Plan.** All of the OCFS Health Care Plan forms have been revised. The program is not required to complete a new health care plan in its entirety. Programs are also strongly encouraged to update their Health Care Plan as soon as possible and are required to implement all required elements the policy by September 15, 2021. Your regulator

and/or health care consultant (as applicable) will be reviewing the Health Care Plan to ensure compliance with these new requirements. All of the forms referenced in this section are posted on the OCFS website at: <https://ocfs.ny.gov/search/docs.php?type=1&topic=3>

## **REGULATION**

As a result of this new legislation, OCFS will file a notice of proposed rulemaking to enact the necessary changes to regulations to require compliance with Anaphylaxis Policy for Child Day Care Programs. In addition, the proposed regulations will clarify the roles and responsibilities for patient-specific epinephrine auto-injectors, require annual review of the Health Care Plan, and newly authorizes child care programs to possess non-patient specific epinephrine auto-injectors, provided the program complies with all requirements of New York Public Health Law Section 3000-c. OCFS will notify child care programs when the proposed regulations are filed with the Department of State and are available for public comment.

## **TRAINING**


OCFS has developed a 30-minute 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. Soon, this training will be available at no cost to child care programs. OCFS will notify programs when the training is available.

## **AUTO INJECTOR INITIATIVE**

OCFS is thrilled to announce we are partnering with Health First, the company that manufactures AUVI-Q, an epinephrine auto injector for children weighing between 16.5-33 pounds. Upon successful completion of the required training, a child care program may request to have an AUVI-Q injector package shipped to their program at no cost. The package includes two stock auto injectors and one training device. This addition to a child care program's emergency toolkit may save a child's life. While OCFS strongly encourages all programs to take advantage of this exciting opportunity, participation in the AUVI-Q initiative is voluntary. Additional details will be shared in the coming weeks. Please stay tuned!

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 regulator.

Sincerely,



Janice M. Molnar, Ph.D.  
Deputy Commissioner  
Division of Child Care Services