

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES**PARENTAL RESPONSIBILITIES WHEN EMPLOYING A LEGALLY-EXEMPT
IN-HOME CHILD CARE PROVIDER**

Dear Parent/Caretaker,

When you choose to use an in-home child care provider, you are regarded as an employer and therefore you must meet the requirements for each of the following. Minimum wage and other benefit levels are subject to change. You must check with the New York State Department of Labor to make sure that you meet all of the current requirements.

1. Minimum Wage Requirement

When you have someone care for your child(ren) in your home, you must pay your in-home child care provider no less than minimum wage. The New York State minimum wage was \$7.25 per hour as of August 2010. It is your responsibility to keep informed of the current minimum wage and you may do so by contacting the New York State Department of Labor. Any increase in the federal minimum wage above the state rate will result in an increase to the state's minimum wage. For more information, contact the New York State Department of Labor or visit their website at <http://www.labor.ny.gov/>

2. Social Security Taxes (FICA)

You, as the employer of an in-home child care provider, are responsible for reporting and paying FICA each calendar quarter. FICA does not apply to wages that you pay your own children under 21 years of age. As an employer, you must withhold a percentage of the in-home child care provider's earnings and you must also contribute a matching amount for FICA which includes a portion for Social Security and a portion for Medicare. You may get help determining the appropriate amounts that need to be withheld by contacting the Internal Revenue Service. For more information on FICA rate, forms, filing procedures, and general assistance, contact the Internal Revenue Service at 1-800-829-1040.

3. Federal Unemployment Tax (FUTA)

As an employer, you are required to make FUTA payments if you pay your in-home child care provider in cash wages in any calendar quarter. You should contact the Internal Revenue Service for the dollar amount of cash wages which require FUTA payments. This tax must be paid by you as the employer and cannot be deducted from your in-home child care provider's wages. You must file a Form 940 or Form 940-EZ at the end of the year. For more information on the FUTA rate, forms, filing procedures and general assistance, you may contact the nearest Internal Revenue Service (IRS) office.

4. NYS Unemployment Insurance

If you pay your in-home child care provider a total of \$500 or more in a calendar quarter, then you are required to pay New York State unemployment insurance (UI) taxes. The wages need not to be paid to any one employee to make you liable to pay UI taxes. If you have paid cash wages of at least \$500 in total to one or more in-home child care providers in a calendar quarter, you are required to pay the tax. For information on how to register and for computation of your UI tax rate as an employer, contact the New York State Department of Labor, Unemployment Insurance Division, W.A. Harriman Campus, Building 12, Albany, New York, 12240 or visit their website at <http://www.labor.ny.gov/>

5. New York State Workers' Compensation

When your in-home child care provider works 40 or more hours per week, you are responsible for providing Workers' Compensation Insurance and Disability Benefit Insurance coverage. This requirement does not apply to your own children who are under the age of 21. You may not charge any part of the cost of this insurance to your in-home child care provider. This insurance may be purchased from any private company licensed to write such coverage in New York State or from the State Insurance Fund, a State agency. For more information, contact the Worker's Compensation Board at 1-877-632-4996.

You may request that the local social services district add the cost of these benefits to the rate charged by your in-home child care provider in order to calculate the full cost of your child care. You will need to inform the Local Social Services District how much your in-home child care provider charges you and how much additional you are paying to cover the costs of the benefits. The Local Social Services District may then be able to include all or some portion of these benefits in your child care subsidy, if the total amount is below the applicable market rate. The Local Social Services District cannot pay more than the child care market rate. You are responsible for paying your in-home child care provider the difference between the total cost of care and what the Local Social Services District can pay.