LOCAL COMMISSIONERS MEMORANDUM

DSS-4037EL (Rev. 9/89)

Transmittal No: 95 LCM-112

Date: October 3, 1995

Division: Health & Long Term Care

TO: Local District Commissioners

SUBJECT: Gomprecht v. Sabol et al - Court-ordered Support in Spousal Impoverishment Cases

ATTACHMENTS: Gomprecht v. Sabol et al Court of Appeals Decision (not available on line)

As informed by GIS 95MA029, in the matter of Gomprecht v. Sabol et al, the State of New York Court of Appeals ruled that the Family Court, when awarding support on behalf of a non-institutionalized community spouse, is required to link the Family Court award to the spousal amount as determined pursuant to Section 366-c of Social Services Law. Therefore, the Family Court must apply the minimum monthly needs standard, absent a showing of exceptional circumstances, to determine the award.

The decision also applies when awarding support from resources on behalf of a non-institutionalized community spouse to the community spouse.

SSL Section 366-c allows a higher community spouse monthly income allowance based on exceptional circumstances which result in significant financial distress. Significant financial distress means exceptional expenses which the community spouse cannot be expected to meet from the monthly maintenance needs allowance or from amounts held in resources. Such expenses may be of a recurring nature or may represent major one-time costs, and may include, but are not limited to: recurring or extraordinary non-covered medical expenses (of the community spouse or dependent family members who live with the community spouse); amounts to preserve, maintain, or make major repairs on the homestead; and amounts necessary to preserve an income-producing asset.

In the event the exceptional circumstances cease to exist, the community spouse monthly income allowance must be adjusted accordingly.

SSL Section 366-c also provides that if the community spouse's otherwise available income, together with the income allowance from the institutionalized spouse, is less than the maximum monthly income allowance, the community spouse resource allowance may be increased to generate sufficient income to raise the community spouse's income up to the maximum monthly income allowance.

Social services districts should reference this decision when bringing spousal support matters before the Family Court, and may petition to amend existing support orders in accordance with Gomprecht v.Sabol et al.

Attached for your information is a copy of the decision. If you have any questions, please contact Elsie Kirk at 1-800-343-8859, extension 3-5509.

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Division of Health and Long Term Care