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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 91 ADM-20

DIVISION: Adult Services

TO: Commissioners of
 Social Services

DATE: July 3, 1991

SUBJECT: Protective Services for Adults: Development of Written Plans
 for the Provision of Services to Involuntary Clients

 SUGGESTED

DISTRIBUTION: County and Agency Attorneys
 Directors of Social Services
 Protective Services for Adults Staff
 Staff Development Coordinators

CONTACT

PERSON: Adult Services Program Representative
 at 1-800-342-3715:
 Irvin Abelman, ext. 432-2980 or (212) 804-1247
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ATTACHMENTS: None

FILING REFERENCES

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|------------------------|-----------------------|-------------|---|-------------|------------|
| 88 ADM-23 90 INF-16 | | Part 457 | Article 9-B | | |

I. PURPOSE

The purpose of this directive is to advise local districts of the requirement to develop a written plan for the provision of involuntary services to certain Protective Services for Adults (PSA) clients. This transmittal assists the districts in meeting the requirements in the recently revised Part 457 of the Department's regulations as well as in enhancing service delivery to certain involuntary PSA clients.

II. BACKGROUND

Previously, the Department identified a need to clarify the responsibilities of the local social services districts to provide services to certain involuntary PSA clients in accordance with Article 9-B of Social Services Law (SSL) and Part 457 of the Department's regulations. To address this issue, the Department released an Administrative Directive (88 ADM-23) and provided regional technical assistance to local staff in the fall of 1988. That directive requires local districts to:

- o ensure the availability of Legal staff for consultation with program staff and timely intervention on behalf of PSA clients;
- o provide training to local district Legal and PSA staff and staff of other agencies regarding legal interventions; and
- o establish a process to obtain mental health evaluations for involuntary PSA clients.

Despite these requirements, there are continuing problems in terms of service provision to involuntary PSA clients, especially the availability of Legal staff and mental health evaluations.

In addition to problems noted by the Department, the provision of services to involuntary clients was identified as requiring further attention by the New York Public Welfare Association's (NYPWA) Adult Services Subcommittee. In a 1989 report entitled "Protective Services for Adults (PSA) Service Delivery Model: A Viable, Cost Efficient Alternative to a State Central Registry," the Subcommittee recommended that the Department require local districts to develop State-approved procedures for the delivery of involuntary services.

Based on the problems noted by the Department and NYPWA, we have revised Part 457 of the Department's regulations and are issuing this directive.

III. PROGRAM IMPLICATIONS

While all PSA clients present unique challenges, the provision of PSA to involuntary clients is a complicated issue which requires respect for the client's rights, a basic understanding of appropriate provisions of law, a

strong collaborative relationship between local district PSA and Legal staff as well as the cooperation/assistance of other community agencies.

Therefore, in accordance with subdivision (d) of Section 457.6 of the Department's regulations, local districts must develop and implement detailed written procedures, subject to department approval, for the provision of services for involuntary clients. Written procedures will reduce misunderstandings and misinterpretations, foster accountability, and help assure the provision of appropriate services to involuntary clients in a timely manner.

IV. REQUIRED ACTION

A. Local districts must develop and implement detailed written procedures for the provision of services to involuntary clients. These procedures must address four specific areas: training PSA and legal staff; continuing community education and networking activities; obtaining mental health evaluations; and assuring the availability of the agency's Legal staff, including a mechanism to assure the prompt resolution of conflicts between PSA and Legal staff. Given the need for a strong collaborative relationship between the district's Legal and Services staff in serving involuntary clients, the Department recommends that the procedures be developed jointly or with strong input from Legal staff.

1. The written procedures must include details for training current and new staff in the appropriate utilization of the various interventions which may be employed on behalf of involuntary PSA clients, including applicable provisions of Article 9-B SSL, Sections 457.5 and 457.6 of the Department's regulations and 88 ADM-23 (Protective Services for Adults: Serving Involuntary Clients). Local training initiatives should include joint training between Legal and Services staff.

Section 457.4 of the Department's regulations requires that PSA caseworkers and supervisors satisfactorily complete a basic training program in PSA, including the PSA Institute and Legal Aspects of PSA. Local district Legal staff should be encouraged to attend the Legal training day of the Institute and the Legal Aspects of PSA training. In addition, Legal staff should be encouraged to participate in the PSA seminars sponsored by the Department's Division of Legal Affairs.

2. The written procedures must include details of the local district's community education and networking activities with regard to the roles and responsibilities of the district and appropriate community agencies, including health, mental health, aging, legal and law enforcement agencies, in the delivery of services to involuntary PSA clients. The procedures also must address the linkages with other units within the district, particularly Medical Assistance, since Medicaid funded home care services sometimes are provided to involuntary PSA clients.

As appropriate, the agency-specific roles and responsibilities to be addressed through a district's community education process must include the following:

- o assistance in the completion of assessments and other documentation necessary to support an intervention on behalf of involuntary PSA clients and persons believed to be in need of PSA;
 - o the provision of services to involuntary PSA clients;
 - o availability to testify in court proceedings as appropriate;
 - o specific procedures with police agencies regarding the execution of Orders to Gain Access and Short Term Involuntary Protective Services Orders (STIPSO);
 - o public education initiatives with the courts regarding PSA legal interventions, so that the courts will understand the purpose of the law and the role of the districts prior to the utilization of specific statutes; and
 - o procedures with the local District Attorney's Office regarding referral for criminal prosecution in cases involving the abuse, neglect or exploitation of a PSA client by another individual.
3. As stated in paragraph D of the Required Action Section of 88 ADM-23, the Department and the State Office of Mental Health (OMH) have developed an agreement for the provision of mental health assessments on behalf of involuntary PSA clients when the district is considering legal intervention. The written procedures must include information regarding the process which local districts have established in order to obtain these evaluations.
4. The written procedures must specify the roles and responsibilities of Services and Legal staff in identifying and documenting the need for specific legal interventions. The procedures also must assure the availability of Legal staff for timely consultation with PSA staff when requested and the timely implementation of legal interventions on behalf of PSA clients in appropriate situations, in accordance with Section 457.6(d)(4) of the Department's regulations.

The procedures also must assure that any significant disagreements between PSA and Legal staff regarding the need for legal intervention on behalf of an involuntary PSA client are promptly referred to the commissioner or his designee for resolution, in accordance with Section 457.6(d)(5) of the Department's regulations.

5. In order to assure the timely implementation of appropriate interventions, the procedures also must include specific time frames for pursuing these interventions. Necessary legal action must be taken as expeditiously as possible depending upon the client's circumstances. The Department recommends the following as maximum time frames for pursuing specific legal interventions:
- o For a STIPSO, once PSA staff has identified the case as meeting the applicable criteria and recommended a course of action, within five (5) calendar days either the necessary petition should be filed with the appropriate court or the decision made to not pursue a STIPSO.
 - o For an Order to Gain Access or an Order of Protection, once PSA staff has identified the case as meeting the applicable criteria and recommended a course of action, within ten (10) calendar days either the necessary petition should be filed with the appropriate court or the decision made to not pursue legal intervention.
 - o For long term interventions (Conservator, Committee, Guardian of the Mentally Retarded), once PSA staff has identified the case as meeting the criteria and recommended a course of action, within sixty (60) calendar days either the necessary petition should be filed with the appropriate court or the decision made to not pursue legal intervention.

The procedures also must include a mechanism for ongoing monitoring of the client's situation and communication between Services and Legal staffs, so that any serious change in the client's circumstances which warrants a more expeditious initiation of a legal intervention can be appropriately addressed.

B. No later than August 1, 1992 each district shall submit assurance in writing to the Department that a written plan for the provision of services to involuntary PSA clients has been developed which complies with the requirements of this directive. The letter of assurance shall be submitted to:

Deputy Commissioner
Division of Adult Services
New York State Division of Adult Services
40 No. Pearl Street
Albany, NY 12243

C. At the Department's request, local districts will be required to submit a copy of the written plan for the Department's review and approval.

V. SYSTEMS IMPLICATIONS

None

VI. ADDITIONAL INFORMATION

In meeting with appropriate agencies to establish specific agency roles and areas of responsibility in the provision of services to involuntary clients, it is recommended that the districts work toward developing written agreements. Establishing formal linkages will help ensure that PSA caseworkers can routinely refer their clients to other agencies, thereby enabling necessary services to be determined and provided in a timely manner. Written agreements also enable responsibility and accountability in the delivery of services to involuntary clients to be clearly identified and enforced.

VII. EFFECTIVE DATE

August 1, 1991

William E. Gould
Acting Deputy Commissioner
Division of Adult Services