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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 99 ADM-5

TO: Commissioners of
 Social Services

DIVISION: TA, OMM, OCFS,
 OCSE

DATE: July 01, 1999

SUBJECT: Cooperation with Child Support Enforcement for Temporary
 Assistance, Medicaid, Foster Care and Child Care Services
 Applicants and Recipients

SUGGESTED

DISTRIBUTION:

Income Maintenance Directors
 CAP Coordinators
 Medicaid Directors
 Services Directors
 Foster Care Supervisors
 Child Care Unit Supervisors
 Child Support Enforcement Unit Coordinators
 Support Collection Unit Supervisors
 Staff Development Coordinators

CONTACT

PERSON:

Temporary Assistance and Food Stamps:
 Your Regional Team Representative
 at 1-800-343-8859: Region 1 - extension 3-0332;
 Region 2 - 4-9344; Region 3 - 4-9307; Region 4 - 4-9300
 Region 5 - 3-1469; Region 6 - (212) 383-1658
 Child Support: Your County Representative Outside of
 New York City at 1-800-343-8859; New York City at
 1-212-383-1685
 Medicaid: Your Local District Liaison at 518-474-9130
 for Upstate and at 212-613-4330 for New York City
 Foster Care: Michelle Rafael at (518) 474-4352
 Child Care: Anne Ball at (518) 474-3775

ATTACHMENTS:

See Table of Contents on Page 2

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		347.5			
91 ADM-40	91 ADM-40	351.2	SSL 111-b	PASB	
92 ADM-40		352.15	111-c	VIII-R	
97 ADM-17		352.31 (a)	131 (16)	VIII-T	
98 ADM-2		360-3.2	131-a (8)	IX-J	
98 ADM-3		369.2 (b)	132-a		
93 INF-5		369.7	158 (e)	MARG	
OMM/ADM 97-2		370.2 (d)(8)	348	418-420	
98 OMM/INF-2		370.7	349-b		
		415.5	366		
		422; 426.8	398		

I. TABLE OF CONTENTS

	<u>Page</u>
I. <u>ATTACHMENTS</u>	
Glossary (on-line)	A
DSS-2521 (9/83) Application for Child Support Services ..	B
LDSS-2859 (9/98) Child Support Information Transmittal ..	C
DSS-2860 (5/87) Child Support Enforcement Referral	D
DSS-3343 (4/81) Quarterly Roster of Good Cause Claims ...	E
LDSS-4281 (9/98) Attestation to Lack of Information	F
IV-E FC and Non-IV-E FC: Notification Regarding Your Responsibility to Provide Child Support (on-line)...	G
IV-E FC and Non-IV-E FC: Foster Care Child Support Referral Determination Form (on-line)	H
II. <u>PURPOSE</u>	3
III. <u>BACKGROUND</u>	3
IV. <u>PROGRAM IMPLICATIONS</u>	4
V. <u>REQUIRED ACTION</u>	5
A. Assignment of Rights and the Cooperation Standard..	5
B. Who Must Do What	
1. Temporary Assistance	8
2. Medicaid	12
3. IV-E Foster Care and Non-IV-E Foster Care..	16
4. Child Care Services	18
5. Child Support Enforcement Unit	22
C. Special Notes Concerning the Temporary Assistance and Medicaid Undercare Populations	26
D. Exceptions to Requirements to Cooperate	29
E. Consequences of Refusal or Failure to Cooperate ..	31
F. Determining Good Cause	35
VI. <u>SYSTEMS IMPLICATIONS</u>	42
VII. <u>ADDITIONAL INFORMATION</u>	47
VIII. <u>EFFECTIVE DATE</u>	47

II. PURPOSE

This directive is released in order to transmit:

- changes in the process for referring temporary assistance (TA), Medicaid, IV-E foster care (IV-E FC), Non-IV-E foster care (Non-IV-E FC) and child care services applicants and recipients (A/Rs) to the child support enforcement unit (CSEU). For purposes of this directive, "child care services" (CC) encompasses child care under the New York State Child Care Block Grant and Title XX;
- changes in the standards of cooperation with paternity establishment and support enforcement which TA, Medicaid and CC A/Rs must meet;
- changes which now vest the CSEU with the responsibility for determining whether a TA, Medicaid, IV-E FC, Non-IV-E FC or CC individual has cooperated to establish paternity and secure support;
- changes in the rules for calculating a TA household's grant when a household member fails to cooperate with child support (IV-D) requirements; and
- the revised LDSS-2859 form, for communications between CSEU and the various programs, and the revised attestation form (LDSS-4281).

This directive describes these changes in the child support process, as well as reiterates the existing TA/IV-D, Medicaid/IV-D, IV-E FC/IV-D, Non-IV-E FC/IV-D and CC/IV-D policy framework for these new procedures.

III. BACKGROUND

Recent federal and State legislation and Office regulation amendments contained provisions which change the IV-D process for TA, Medicaid and CC A/Rs. The changes include a new standard of cooperation for TA and Medicaid A/Rs; a new TA sanction budgeting methodology in cases of non-compliance with child support requirements; and a new child support cooperation requirement for all CC A/Rs.

Income from child support payments is an integral part of recipients' movement to self-sufficiency. By actively participating in the child support process as early as possible, A/Rs will enhance the likelihood that their children's absent parents or putative fathers will be located, paternity established and support orders secured and enforced. Based on this principle, recently filed State regulations now require TA applicants to demonstrate, prior to their eligibility determination, that they have met the child support cooperation criteria. TA recipients continue to have an ongoing requirement to

cooperate with establishing paternity and securing support. Medicaid-Only recipients continue to have an ongoing requirement to cooperate with establishing paternity and securing medical support. Pregnant Medicaid-Only A/Rs continue to be exempt from these requirements until after the 60-day postpartum period.

The criteria which will be used to determine whether an A/R has cooperated with establishing paternity and securing support are specified in Office regulations. Recent amendments reflect the new, higher standards of cooperation for TA, Medicaid and CC and provide more detailed descriptions of the actions that constitute compliance.

The new compliance criteria represent the first time that a comparable IV-D cooperation standard will apply to custodial parents in the TA, Medicaid and CC programs. Thus, if a custodial parent is required, by the rules of each program, to cooperate with the IV-D process and fails, without good cause, to do so, a sanction will be imposed for TA and the custodial parent will not be eligible for Medicaid or for CC payments. However, for Medicaid, cooperation to obtain cash support is not required, and a pregnant A/R is exempt from all IV-D requirements until after the 60 day postpartum period.

In addition, under the new provisions of federal and State laws regarding IV-D sanctions for TA cases, the penalty is applied to the TA case even when the non-complying individual is ineligible or already sanctioned for another reason. Formerly, if the non-complying individual's needs were not included in the TA budget because he or she was ineligible for TA due to receipt of SSI or refusal to sign a lien, for example, the IV-D sanction did not result in a further reduction of the grant.

Federal statutory amendments also transferred responsibility for cooperation determinations from TA, Medicaid and IV-E FC workers to CSEU workers. New Office regulations require local district CSEU staff to determine whether TA, Medicaid, IV-E FC, Non-IV-E FC and CC A/Rs have cooperated with the district's efforts to establish paternity and secure support on their families' behalf.

IV. PROGRAM IMPLICATIONS

TA, Medicaid, IV-E FC, Non-IV-E FC and CC A/Rs have an affirmative, ongoing responsibility to participate in establishing paternity and securing and providing support (for Medicaid, medical support only) for their children. Local district staff must ensure that TA and Medicaid applicants, except those cases described in Section V.D of this directive, whose households include children under age 21 with absent parents or putative fathers are required to assist in completion of a DSS-2860: "Child Support Enforcement Referral" form (Attachment D) and, if necessary, report for a face-to-face IV-D interview prior to their eligibility determination; optimally, prior to their eligibility interview. Upstate TA staff must, and Medicaid staff should, utilize the electronic (WMS) IV-D referral screen for

new and undercare TA and Medicaid cases needing child support services.

Local CSEU staff must determine whether TA, Medicaid, IV-E FC, Non-IV-E FC and CC A/Rs are cooperating to establish paternity and obtain support (for Medicaid, medical support only) for their children, and notify the A/Rs and TA/Medicaid/IV-E FC/Non-IV-E FC/CC staff whether the A/Rs have cooperated. In instances of non-cooperation, CSEU staff must include in their notice the specific requirement with which the client failed to comply. In the case of a TA or Medicaid-Only applicant, CSEU staff must notify TA or Medicaid staff of the cooperation/non-cooperation determination before the TA or Medicaid staff make their eligibility decision.

V. REQUIRED ACTION

TA, Medicaid, IV-E FC, Non-IV-E FC, CC and CSEU clients and workers have initial and ongoing responsibilities in the IV-D process. These responsibilities are described below.

A. Assignment of rights and the cooperation standard

1. Assignment of rights: For TA and IV-E FC, in the case of continued absence of a parent or stepparent of a household member under the age of twenty-one years, assigning to the State and the social services district any rights to support which such person may have either in his own behalf or in behalf of any other family member for whom aid is requested or received, and to pay to the support collection unit such support. Application for or receipt of TA or IV-E FC constitutes such assignment.

Please note that payments from an absent parent specifically designated by a court order for child day care expenses are not covered by the assignment of support rights. Child care payments which are collected by the district's SCU will be disbursed to the family and, as payments earmarked for an expense which is not covered by TA funds, will not be counted as TA income.

Medicaid A/Rs, including legally responsible relatives and individuals with legal authority for the A/Rs, must assign to the State and the social services district:

- a. any rights to payment for medical care from a third party, and
- b. rights to support specified by a court or administrative order to be used for medical care.

Application for Medicaid constitutes such assignment. A Medicaid-Only A/R does not assign rights to cash support.

Cash child support which has not been specified by a court or administrative order to be used for medical care is not assigned and is allowable income to the child in a Medicaid-Only case.

2. The cooperation standard for TA, Medicaid, IV-E FC, Non-IV-E FC and CC A/Rs is defined below and summarized in a chart. In addition, several technical terms which are used throughout this directive are defined in Attachment A.

Cooperation includes the following actions that an A/R must take:

For TA, Medicaid, IV-E FC, Non-IV-E FC and CC, cooperating in good faith with the CSEU in establishing the paternity of a child born out of wedlock; in efforts to locate any absent parent or putative father; in establishing, modifying, and enforcing orders of support (for Medicaid, medical support only); and in obtaining support payments or any other payments or property due such person and due each child. For CC, a client may also meet the child support requirements by demonstrating that he or she is actively pursuing child support from the non-custodial parent(s) through other means, e.g., by private representation in Family Court or Supreme Court.

For TA, Medicaid, IV-E FC, Non-IV-E FC and CC, the requirement to cooperate with the CSEU includes the following (a - f):

- a. providing verifiable information sufficient to identify and locate the absent parent or putative father, including:

- (1) the full name and social security number of the absent parent or putative father;

or

- (2) the full name of the absent parent or putative father and at least two of the following concerning such parent or father:

- (a) date of birth;
- (b) residential and, if different, mailing address;
- (c) telephone number; and
- (d) name and address of employer;

or

- (3) the full name and any additional information

equivalent to the information required by paragraph (1) or (2) above that leads to establishment of the absent parent's or putative father's identity and location;

or

- (4) attesting, under penalty of perjury, to the lack of information, by completing and signing the LDSS-4281 (rev. 9/98): "Attestation to Lack of Information" (Attachment F). Please see section V.B.5.b.(5) of this directive for more information about attestations;
 - b. appearing at the local CSEU, as required by the CSEU, to provide such oral or written information or documentary evidence, known to be possessed by or reasonably obtainable by the A/R, that is relevant to achieving the objectives of establishing paternity and securing support (for Medicaid, medical support only). When assessing whether an A/R must be interviewed in person in the CSEU, the district must consider whether the A/R already has provided all of the information required to establish paternity and secure support;
 - c. appearing as a witness at court or other hearings or proceedings necessary to achieve the objectives of establishing paternity or securing support;
 - d. providing additional requested information or attesting to the lack of information under penalty of perjury;
 - e. submitting the child and self to genetic tests, pursuant to judicial order or administrative direction; and
 - f. for TA and IV-E FC, paying to the support collection unit any payments received from the absent parent which are covered by the support assignment. For Medicaid-Only cases, cash support, other than assigned medical support, is paid to the SCU and then disbursed to the family.
3. The following chart summarizes the cooperation standard as it applies to the various assistance programs. Please note that an individual who applies for or receives benefits from more than one program is subject to all of the child support requirements respective to each of those programs. For example, a TA/Medicaid/CC recipient's failure to pay assigned medical support to the SCU will result in a

penalty under the TA and Medicaid programs, but not for CC services.

APPLICANT/RECIPIENT COOPERATION - THE REGULATORY STANDARD					
Cooperation Requirement	TA	Medi- caid	IV-E FC	NonIV-E FC	CC
Assign rights to cash support	X		X		
Assign rights to medical support	X	X	X		
Cooperate to establish paternity	X	X	X	X	X
Cooperate to establish, modify and enforce cash support orders	X		X	X	X
Cooperate to establish, modify and enforce medical support orders	X	X	X	X	X
Provide information to identify and locate the absent parent or putative father	X	X	X	X	X
Appear at CSEU office as necessary	X	X	X	X	X
Appear at court or other hearings as necessary	X	X	X	X	X
Submit self and child to genetic testing	X	X	X	X	X
Pay assigned cash support to the Support Collection Unit (SCU)	X		X		
Pay assigned medical support to the SCU	X	X	X		
Pay cash and medical support to the SCU				X	

B. Who must do what

1. Temporary assistance

a. Temporary assistance client responsibilities

- (1) Cooperate in good faith with the State and the

social services district to establish the paternity of a child born out of wedlock, to locate any absent parent or putative father and to establish, modify and enforce support orders.

- (2) The term "cooperation", as defined in Section V.A of this directive, includes appearing at the local CSEU, as required by the CSEU, to be interviewed and cooperate with the CSEU prior to the TA eligibility determination.

Most, but not all, applicants will be required to participate in person in a IV-D intake interview. Examples of situations which may not require a face-to-face IV-D interview include the case of an applicant who already has an active (non-TA/non-Medicaid) IV-D case or an applicant whom the CSEU can interview by telephone in accordance with district procedures. In addition, applicants for whom the TA face-to-face eligibility requirement is waived will be subject to alternative arrangements for their IV-D interview as well.

A TA recipient is required to cooperate with the CSEU as long as the family receives TA.

b. Temporary assistance worker responsibilities

- (1) Inform TA A/Rs of their rights, responsibilities and benefits of cooperating with the child support enforcement process, by providing the Client Information Book I (DSS-4148A) at each application and recertification;
- (2) Provide domestic violence notification to, and conduct screening of, all A/Rs. Refer self-identified victims of domestic violence to the district's domestic violence liaison, as described in 98 ADM-3.
- (3) Determine whether an A/R who claims to have good cause for refusing to cooperate actually does have good cause (Please see Section V.E of this directive for more information about good cause);
- (4) Refer applicants to the CSEU prior to their TA eligibility interview. If this is not logistically possible in a district, then refer applicants to the CSEU as soon as practicable

after their eligibility interview but prior to the eligibility determination, to afford them the opportunity to comply with CSEU requirements prior to their TA eligibility determination. Complete the DSS-2860 form and inform applicants who are required to appear in the CSEU that they must bring the completed DSS-2860 to their CSEU interview. Safety Net Assistance (SNA) category cases also must bring to the CSEU a completed DSS-2521: "Application for Child Support Services" (Attachment B). The TA worker must complete and sign the DSS-2521 on behalf of the SNA client because the A/R has assigned support rights to the district.

In New York City, before a case is accepted for TA, the eligibility worker should schedule a IV-D interview using the New York City Way-OCSE automated scheduling system, when it becomes available, and provide separate information for each absent parent. The IV-D office will respond to the TA worker, through the New York City Way-OCSE system, with information regarding the applicant's cooperation and whether a good cause claim was made.

- (5) In districts outside New York City, direct-data-enter a Child Support Enforcement Referral screen (WSVIVD) for each absent parent/putative father, or submit the completed DSS-2860 for screen entry by a data entry operator. In the future, it is intended that this screen will be enhanced to enable the CSEU to send electronic notification to WMS regarding an individual's cooperation or non-cooperation, as well as other updates on the status of the IV-D case in question.

In New York City, the eligibility worker sets the appropriate BCS Indicator value for each individual in the case. The BCS Indicator identifies the IV-D referral status for each child, e.g., whether a referral has been made and whether the A/R claimed good cause. If the A/R was referred to IV-D using the New York City Way system, the eligibility worker should access information about the IV-D interview in the system and use the results to budget the case and set the appropriate BCS Indicator, as described in Section VI of this directive.

- (6) Obtain from A/Rs any necessary documentation which they have not already provided in their IV-D intake interview and, according to district procedures, forward or make documentation available to the CSEU.
- (7) When notified by the CSEU that an A/R has failed to cooperate, impose appropriate sanctions, as described in Section V.E of this directive;
- (8) Take appropriate action in TA cases reported in the IV-D/IV-A Interface Report and in LDSS-2859: "Child Support Information Transmittal" referrals from the CSEU. As explained in the September 27, 1995 letter to all CSEU Coordinators, the weekly IV-D/IV-A Interface Report provides information to TA workers about status changes in child support cases, including location of absent parents, paternity establishment, support order actions and third party health insurance coverage.
- (9) Respond to CSEU requests for TA eligibility and payment information, including TA payment history necessary for the CSEU to update total unreimbursed TA amounts;
- (10) Use support collection information and reports to redetermine recipients' continued eligibility for TA;
- (11) Ask recipients for new and changed information about absent parents and putative fathers and forward all such information, via the DSS-2860 form, to the CSEU;
- (12) Resolve child support pass-through mass rebudgeting/ authorization (IV-D MRB/A) WMS "exceptions" and manually authorize pass-through payments, when necessary. Resolution of pass-through payments must be completed by the 20th calendar day of each month;
- (13) Resolve clients' pass-through questions and complaints if possible;
- (14) Inform A/Rs of the pass-through desk review procedures; and

- (15) When recouping or recovering TA overpayment amounts, do not include amounts of TA already reimbursed by support collected on behalf of the family.

EXAMPLE #1: Dave Davis and his daughter, Maeve, received \$500 TA in November. During November, \$350 current support was collected for the Davises. After the \$50 disregard/pass-through, \$300 was retained. In January, the TA worker learns that Mr. Davis also received, but failed to report, \$100 unemployment benefits (UIB) in November. The worker uses the UIB and support amounts to determine that the Davises were still eligible for TA in November, but should have received \$400 TA - a \$100 overpayment. The worker also determines that the \$300 retained support was applied toward reimbursement of the \$400 TA the Davis should have received. The \$100 TA overpayment is unreimbursed and recoverable.

EXAMPLE #2: The same Davis family received \$500 TA again in December, but failed to report that they also received \$300 UIB that month. During December, \$350 current support was collected for the Davises. After the \$50 pass-through, \$300 support was retained and applied toward reimbursement of the TA paid. The worker uses the UIB and support amounts to determine that the Davises are no longer eligible for TA. The TA worker also determines that, of the \$500 TA overpayment for December, \$200 is unreimbursed and recoverable. The remaining \$300 of the TA overpayment is already reimbursed by support collections and is not subject to recovery from Mr. Davis.

2. Medicaid

a. Medicaid client responsibilities

- (1) Cooperate in good faith with the State and the social services district to establish the paternity of a child born out of wedlock, to locate any absent parent or putative father and to establish, modify and enforce medical support orders.
- (2) The term "cooperation", as defined in section V.A of this directive, includes providing information for the worker to complete the

DSS-2860 form and, if required, appearing at the local CSEU to be interviewed. A Medicaid applicant who is not pregnant or in the 60 day postpartum period must assist in completing the DSS-2860, appear at the CSEU, as necessary, and cooperate with the CSEU unless good cause exists.

A Medicaid recipient's continued cooperation with the CSEU is prerequisite to his or her ongoing eligibility to receive Medicaid. An A/R's Medicaid eligibility must not be delayed or denied, however, if the A/R is complying but, through no fault of the client, the IV-D process has not been completed.

b. Medicaid worker (or appropriate designee) responsibilities

- (1) Inform Medicaid A/Rs of the benefits of cooperating with the child support enforcement process;
- (2) Provide all client books at application and recertification, including Client Information Book I (DSS-4148A), which addresses clients' rights and responsibilities regarding child support;
- (3) Advise all Medicaid-Only A/Rs that, as a condition of initial and ongoing eligibility, they will be required to cooperate in:
 - (a) obtaining third party health insurance (TPHI) and medical payments for themselves and any other individuals for whom the Medicaid-Only A/R can legally assign rights;
 - (b) establishing paternity of a child born out of wedlock for whom the Medicaid-Only A/R can legally assign rights; and
 - (c) obtaining medical support for their children.

NOTE: Medicaid workers should not refer pregnant women to the CSEU until after the 60 day postpartum period. To the extent possible, prior to such referral, districts should continue to pursue the availability of TPHI. If a pregnant minor does not want her parents

contacted, however, TPFI must not be pursued. All other Medicaid-Only A/Rs must cooperate in establishing paternity and securing TPFI and, in the case of an absent parent, securing medical support.

An A/R's failure, without good cause, to cooperate renders such person ineligible for Medicaid. Their children under age 21, however, must be authorized to receive Medicaid if they are otherwise eligible;

- (4) Give and explain the DSS-4279: "Notice of Responsibilities and Rights for Support" to each A/R who is referred to the CSEU;
- (5) The Medicaid worker or an appropriate designee will determine whether an A/R who claims to have good cause for refusing to cooperate actually does have good cause (Please see Section V.F of this directive for more information about good cause);
- (6) Refer to the CSEU cases which include a non-pregnant child under age 21 whose paternity has not been established or whose parent(s) are absent from the home. Complete the DSS-2860 form and inform A/Rs who are required to appear in the CSEU that they must bring the completed DSS-2860 to their CSEU interview. Applicants must be referred to the CSEU prior to their eligibility determination or, if practicable, prior to their eligibility interview;
- (7) Obtain necessary documentation from A/Rs;
- (8) In New York City WMS, enter the appropriate BCS Indicator for each individual. See Section VI of this Directive for systems implications;
- (9) When notified by the CSEU that an A/R who is not pregnant has failed to cooperate, deny the applicant or discontinue the recipient's Medicaid coverage, until compliance, using appropriate notices and procedures. The A/R's children must not be denied or discontinued from Medicaid for this reason. Instructions for budgeting sanctioned individuals are provided in Section V.E.2.b of this directive;
- (10) Take appropriate action in Medicaid cases

reported in the IV-D/Medicaid Interface Report and in LDSS-2859 referrals from the CSEU. As explained in the September 27, 1995 letter to all CSEU Coordinators, the weekly IV-D/IV-A Interface Report provides information to Medicaid workers about status changes in child support cases, including location of absent parents, paternity establishment, support order actions and third party health insurance coverage;

- (11) Respond to CSEU requests for Medicaid eligibility and payment information;
- (12) At recertification and other client contacts, ask recipients for new and changed information about absent parents, and forward information to the CSEU via the LDSS-2859 form; and
- (13) Budget child support income in a Medicaid-Only case with the \$50 disregard as Unearned Income Source Code 06.

NOTE: As described in OMM/ADM 97-2, "Medicaid Implications of Welfare Reform", the four-month Medicaid child support extension is tied to the loss of Medicaid eligibility under Low Income Family (LIF) due to receipt of child or spousal support. OMM/ADM 97-2 also addressed the use of a manual notice for cases losing LIF eligibility and beginning the four-month extension. A CNS undercare notice has been developed and will be available shortly.

c. Medicaid applications at outstation sites

The Department of Health and districts continue to be involved in establishing locations other than the local department of social services (DSS) offices where consumers may apply for Medicaid. The Medicaid face-to-face interview is conducted at many of these locations. Outstation sites include PCAPs, federally qualified health centers (FQHCs), WIC offices and other designated locations. Outstationing activities will increase significantly as federal Title XXI requirements and new State legislation continue to be implemented.

At present, child support functions will not be performed at outstation sites. The procedures that have been in place since outstationing was implemented will continue until further instructions are issued.

3. IV-E Foster Care and Non-IV-E Foster Care

For IV-E FC and Non-IV-E FC, the term "absent parent" includes the biological parent, stepparent or adoptive parent of a child when the parent is not residing in the household. With respect to a child in foster care, "absent parent" also includes a biological parent, stepparent or adoptive parent who was present in the household when the child entered foster care.

a. IV-E FC/Non-IV-E FC client responsibilities

For a parent, stepparent or adoptive parent of a child who enters foster care, cooperate with the social services district so that the district can determine whether there is a circumstance that exists that would prohibit the referral of applicants for foster care maintenance payments to the child support enforcement unit of the local social services district, pursuant to Section 422.4 of Office regulations. If no such circumstance exists, a IV-E FC parent must cooperate in completing the DSS-2860 form, including third party health insurance information, and providing any necessary documentation. A Non-IV-E FC A/R who voluntarily places a child in foster care must complete the DSS-2521: "Application for Child Support Services" and provide necessary documentation. In the case of an involuntary (i.e., court-ordered) Non-IV-E FC placement, the foster care worker must complete and sign the DSS-2521 on behalf of the Non-IV-E FC A/R.

b. IV-E FC/Non-IV-E FC worker responsibilities

(1) Inform parents, including stepparents, who complete an application for foster care services, at the time of application, of their legal obligation to contribute toward the cost of their children's foster care. Parents whose children are placed in foster care without an application must be informed of their obligation to contribute toward the cost of their children's care within seven days of being notified of their children's foster care placement. Districts may opt to use the model notice of parental obligation to contribute, which is included as Attachment G: "Notification Regarding Your Responsibility to Provide Child Support".

(2) Determine the appropriateness of making a referral to the CSEU. Separate determinations of appropriateness must be made for the former

custodial and non-custodial parents.

Services workers must not refer IV-E FC or Non-IV-E FC cases to the CSEU or, for cases already referred to the CSEU, must notify the CSEU immediately if any of the following circumstances occurs:

- (a) the appropriate social services official determines that such referral will adversely affect the health, safety or welfare of the child on whose behalf such payments are to be made or other persons in the child's household or will adversely affect the length of the child's placement or impair the ability of the child to return home when discharged from foster care;
 - (b) when a surrender of a child born out of wedlock has been accepted by the appropriate social services official from the mother or father of such child, the parent surrendering the child must not be referred to the child support enforcement unit of the social services district; and
 - (c) in the case of a non-adopting spouse, when a non-adopting spouse is living separate and apart from an adopting spouse pursuant to a written agreement of separation or when a non-adopting spouse has been living separate and apart from an adopting spouse for at least three years prior to the adopting spouse's commencing an adoption proceeding.
- (3) Until such time as CONNECTIONS Release 4 is in production, document in the uniform case record any determination not to make a referral and explain the reason(s). A model form is provided in Attachment H: "Foster Care Child Support Referral Determination Form". When CONNECTIONS Release 4 is in production, enter this information on the Child Support window.
- (4) Refer all other cases to the CSEU using the DSS-2860 or the DSS-2521. When CONNECTIONS Release 4 is in production, workers will complete the Eligibility and Child Support windows instead of using the DSS-2860. The CONNECTIONS system will gather the eligibility

information, the information on the child support window and other relevant data such as placement information and cost of care and automatically send this information to the CSEU through an interface process.

- (5) Obtain necessary documentation as required by Section 422.5 of Office regulations, and provide to the CSEU information concerning foster care eligibility and payments. Once CONNECTIONS Release 4 is in production, this information will automatically be supplied to CSEU through the interface process.
- (6) Inform the CSEU, via the LDSS-2859 form, and provide necessary documentation of circumstances that change or new information that may affect support payments. Changed circumstances include, but are not limited to, children discharged from foster care, surrendered for adoption, or who are adopted. Once CONNECTIONS Release 4 is in production, this information will automatically be supplied to CSEU through the interface process.

4. Child Care Services

a. Child Care client responsibilities

- (1) For a parent or other caretaker seeking CC benefits, the caretaker must demonstrate that he or she is actively pursuing a child support order from the non-custodial parent(s) either through the local CSEU or through private legal representation. Once an order is in place, the CC A/R must cooperate in modifying and enforcing the order. The parent or caretaker also must pursue modification of an existing order if it does not address child care costs, or if otherwise required by the CSEU. If the client is pursuing support through private legal representation, the CC Services worker must request the client to pursue modification of the order consistent with child support standards. If the CC A/R is already pursuing child support through the CSEU under the requirements of the TA program, his or her continued compliance under the other program will meet the CC IV-D requirement. An individual who is applying for or receiving only CC and is not pursuing child support independently must provide information needed

by the CC worker to complete the DSS-2860. The A/R must complete the DSS-2521: "Application for Child Support Services" form and comply with the CSEU's child support services process.

- (2) The parent or caretaker seeking child care benefits must sign a release of information form allowing the child care worker to obtain information from the A/R's attorney regarding the parent's pursuit of a support order.
- (3) A CC A/R who receives TA and needs child care in order to participate in a required work activity or to engage in work is eligible for CC services even if the children are not receiving TA, and even if the A/R fails to cooperate with TA child support requirements.
- (4) A Foster Care parent who is applying for CC for a foster child is exempt from child support requirements for the foster child. This exemption applies only with respect to the foster child(ren); if the A/R also is seeking CC for his or her own child(ren), the A/R must seek child support for them.
- (5) An A/R who is not exempt as described in V.B.4.a.(3) or V.B.4.a.(4), above, and who cannot demonstrate that he/she is actively pursuing child support must show good cause, as defined in Section V.B.4.b: "Child Care worker responsibilities", below, for why he/she should be exempted from this requirement.
- (6) An A/R who obtains a reduction in the amount of a child support order for the purpose of qualifying for, or increasing the amount of, a child care subsidy will not be considered to be actively pursuing support and will, therefore, be ineligible for a child care subsidy.

b. Child Care worker responsibilities

- (1) Inform applicants for and recipients of CC services, in cases where there is an absent parent, of their responsibility to actively pursue child support through the CSEU or through private legal representation. Require the A/R to sign a release of information form allowing the CC worker to obtain information from the A/R's attorney regarding the A/R's cooperation in obtaining support.

- (a) For an applicant who will be going to the CSEU for assistance in obtaining a child support order, complete the DSS-2860 and require the applicant to complete the DSS-2521. The CC worker should refer the completed DSS-2860 and DSS-2521 for an applicant, including one who is on a waiting list for child care funds, to the CSEU at the time of application for child care benefits. If the applicant chooses to submit the DSS-2860 and DSS-2521 at a later time, the CC worker must inform the applicant that no action will be taken on the application for CC services until the applicant demonstrates that the completed DSS-2860 and DSS-2521 have been submitted to the CSEU, or demonstrates that the applicant is seeking a child support order independently.
- (b) Notify all current non-TA recipients of CC services of the new child support requirements which will require them to comply no later than their next case action or recertification.

At recertification, for a recipient who elects to go through the CSEU and completes the DSS-2521, the CC worker will redetermine eligibility for the normal six or twelve month recertification period, complete the DSS-2860 and forward the forms to the CSEU. A recipient who demonstrates that he or she is pursuing child support independently also will be recertified for six or twelve months.

A recipient who refuses, without good cause, to comply at recertification must be sent a ten-day notice to terminate CC benefits, as described in Section V.B.4.b.(6) of this directive.

A recipient who, at recertification, does not complete the DSS-2521, or cannot demonstrate he or she has secured a child support order or has secured private legal representation to obtain an order will, if otherwise eligible, be recertified for three months only. Two weeks prior to the next recertification, for a recipient who

chose to go through the CSEU, the CC worker should ask the CSEU whether the recipient is cooperating to obtain support. For a recipient who chose to pursue support independently, send a two-week reminder of the requirement to demonstrate compliance at recertification. At the end of the three-month period, send a ten-day notice and terminate services unless the recipient has done one of the following:

- _ Complied with the CSEU;
- _ Secured private legal representation;
- _ Obtained a court order for support; or
- _ Has good cause not to pursue support.

(2) Verify that a CC-Only A/R is cooperating with the CSEU to obtain child support; or already receives court-ordered child support and is cooperating to enforce the order; or is pursuing child support through private legal representation. For an individual who also is applying for or receiving TA for the children, verify with the CSEU that he or she is cooperating to obtain child support.

(3) A CC-Only A/R who is pursuing child support independently must demonstrate that he or she has secured legal representation, as documented by a letter from the representing firm or organization which attests to the following information:

(a) "Client X has provided me information regarding the absent parent that will assist in establishing the absent parent's identity and location and in establishing paternity and securing support. Client X agrees to appear as a witness at court and has agreed to subject herself or himself and the child(ren) to genetic tests if needed to establish paternity";

(b) Estimated schedule for completion of absent parent location, genetic testing, paternity establishment and establishing a support order; and

(c) Agreement to provide a quarterly status report on the case which is sufficient to establish that the representative is

actively pursuing the support order and the client is cooperating in this effort.

(4) If an A/R claims good cause for not pursuing child support, the district must determine whether the A/R should be exempt for good cause and must verify and document in the case file the reasons for granting an exemption. For CC purposes, good cause exists if pursuing child support would adversely affect the health, safety or welfare of the child on whose behalf child care payments are to be made or of other persons in the child's household. Please see Section V.F of this directive for instructions for making good cause determinations.

(5) In the case of an A/R who is receiving payments for child care expenses from an absent parent, or for whom the absent parent is paying a portion of child care costs directly to a provider, verify the amounts of such payments and consider such payments when calculating CC benefit amounts.

(6) In the case of a non-complying, non-exempt individual, deny or terminate CC benefits. Please refer to 93 INF-5 for information about CC client notification forms. The denial or closing notice must include the following statement:

"You did not cooperate to establish paternity or get support payments for [name of child] and did not show that you have good cause for not cooperating."

(7) The CC Services unit must establish procedures for interviewing A/Rs who indicate an inability to provide information sufficient to meet the standards of cooperation. These procedures must address providing to such A/Rs an opportunity to sign the LDSS-4281: "Attestation to Lack of Information" form.

5. Child Support Enforcement Unit

a. Child support client responsibilities

(1) Provide information needed to complete the DSS-2860. Required information includes the name, social security number, date of birth, telephone number, address, and employer name

and address of the absent parent/putative father, or such other information (e.g., name and address of relatives, friends) which can lead to the identity and location of the absent parent/putative father;

- (2) Provide documentation to the CSEU in support of (1) above including receipts, tax records, court orders, voluntary acknowledgments of paternity, paystubs, and letters;
- (3) Appear at the CSEU, as necessary, to provide the completed DSS-2860 and such information and documentary evidence possessed or reasonably obtainable. SNA, Non-IV-E FC and CC-Only A/Rs also must bring the completed DSS-2521 to the CSEU interview;
- (4) Appear and participate at court, hearings or other proceedings when necessary;
- (5) For any information not provided under (1) above, complete LDSS-4281: "Attestation to Lack of Information";
- (6) Submit self and any child for whom paternity needs to be established to judicial or administrative orders for genetic tests; and
- (7) Pay to the Support Collection Unit any support received which is covered by the assignment of support rights.

b. Child support worker responsibilities

- (1) Review the CSMS for any information about the applicant/recipient and the absent parent/putative father;
- (2) Affirm that the DSS-2860 and supporting documentation is complete and determine if the information is sufficient to identify and locate the absent parent/putative father. At a minimum, the information must include: the absent parent/putative father's name and social security number or name and at least two of the following; date of birth, mailing and if different, residential address, telephone number, name and address of employer or other information which can lead to the identity and location of the absent parent/putative father;

- (3) Interview the A/R for information if the data obtained pursuant to (1) and (2) is insufficient to identify and locate the absent parent/putative father;
- (4) Determine A/R cooperation, ensure that the DSS-2860 has been completed, and provide notice of cooperation/non-cooperation to the A/R and to the TA, Medicaid, IV-E FC, Non-IV-E FC or CC programs, as appropriate, via the LDSS-2859 form. Note: such notification of cooperation determination must be made promptly to ensure that TA and Medicaid programs are aware of the cooperation determination prior to an applicant's eligibility interview. In districts which refer applicants to the CSEU after the eligibility interview, the CSEU must provide cooperation notification prior to the eligibility determination.

In New York City, when the New York City Way-OCSE automated system becomes available, data enter whether the A/R cooperated with respect to each absent parent/putative father, and if a good cause claim was made.

- (5) If, after the CSEU investigative interview, an A/R disavows knowledge of information necessary to identify and locate the absent parent/putative father, explain the attestation form and penalties for concealing facts about the absent parent/putative father. Require the A/R to complete the LDSS-4281 and provide a copy to the A/R and to TA/MA/IV-E FC/Non-IV-E FC/CC as appropriate;
- (6) Review the CSMS Daily Interface Report for TA case openings. Also, in districts outside New York City, review the CSMS Daily Interface Report for IV-E FC, Non-IV-E FC and Medicaid case openings;
- (7) In districts outside New York City, review the IVDRSP for completeness;
- (8) Build the CSMS case and initiate next appropriate action;
- (9) Supplement the weekly IV-D/IV-A Interface Report with LDSS-2859 referrals as needed, as described in Section V.C.2;

- (10) Review client cooperation periodically and at the request of TA/Medicaid/IV-E FC/Non-IV-E FC/CC staff, and notify the appropriate staff of recipient's cooperation/non-cooperation;
- (11) When a TA A/R indicates the presence of domestic violence, refer the individual to the district's domestic violence liaison for screening and assessment and, as described in 98 ADM-3, cease location, paternity establishment and support enforcement activities while the A/R undergoes screening and assessment;
- (12) Refer to TA/Medicaid/CC any A/R who claims good cause for refusing to cooperate. Refer to the foster care services worker any IV-E FC/Non-IV-E FC A/R who asserts that child support must not be pursued in the A/R's case due to circumstances described in Section V.B.3.b.(2) of this directive. Refer to TA/Medicaid/IV-E FC/Non-IV-E FC/CC any case where the CSEU is aware of circumstances which could jeopardize the health, safety or welfare of the family if the CSEU were to proceed, and suspend activities on that case;
- (13) On a case for which good cause has been claimed, or a IV-E FC/Non-IV-E FC case when the A/R asserts that child support must not be pursued for reasons described in Section V.B.3.b.(2) of this directive, take no further action to establish paternity or establish, modify or enforce child support until notified by TA/Medicaid/IV-E FC/Non-IV-E FC/CC that child support activities may continue;
- (14) Review and comment as appropriate on good cause findings made by TA or Medicaid;
- (15) In a case where TA/Medicaid/IV-E FC/Non-IV-E FC/CC has determined that child support enforcement actions may not continue, cease all paternity and support activities;
- (16) Provide any A/R with an opportunity to cooperate at any time upon contact by such A/R or the TA/Medicaid/IV-E FC/Non-IV-E FC/CC program;
- (17) After the CSEU makes a determination of non-cooperation, if the A/R cooperates, the

CSEU must promptly notify TA/Medicaid/IV-E FC/Non-IV-E FC/CC;

(18) In any foster care case where the basic child support obligation as determined by the child support standards exceeds the cost of care, the CSEU may advise the court that the basic child support obligation is unjust or inappropriate and that the amount of the support order should not exceed the actual costs of foster care plus any costs attributable to the costs of Medicaid paid on behalf of a child; and

(19) CSEU staff must review and resolve IV-D exceptions in the monthly IV-D MRB/A, indicating the amounts of pass-through payments due, for referral to TA. CSEU must respond to and, to the extent possible, resolve TA workers' pass-through inquiries concerning dates and amounts of support collections. When a recipient or former recipient disagrees with the CSEU/SCU's support collection records on which pass-through payment amounts are based, the individual must be referred to the desk review process.

C. Special notes concerning the TA and Medicaid undercare populations

1. TA and Medicaid worker responsibilities

TA and Medicaid workers have an ongoing responsibility to ask recipients for new and changed information concerning putative fathers and absent parents. As the agency's first and most frequent point of contact with recipients, and as the determiners of ongoing program eligibility, a program worker is best able to remind recipients of the requirement and the benefits of cooperating with support enforcement activities. The potential payoff - income from child support payments - is a major component of self-sufficiency, particularly in light of time-limited cash assistance. Often a recipient has access to vital information that can save months of investigation and location efforts, and lead to earlier establishment of paternity and support obligations.

To reinforce recipients' involvement in the support enforcement process, workers must question recipients regarding putative fathers and absent parents no less frequently than at each recertification. In addition to asking location and support-related questions at recertification, workers must encourage recipients between

recertifications to report any new or changed information immediately. Workers must refer all information to the CSEU promptly so they can follow-up on leads while they are fresh. TA refers recipients' new and changed putative father/absent parent information to the CSEU on a data-entered DSS-2860. Hard copies of additional comments or documents must be sent to the CSEU.

TA and Medicaid workers also must encourage recipients who have been sanctioned for non-cooperation with child support requirements to take the necessary actions to end the sanction. Workers should discuss cooperation with sanctioned recipients no less frequently than at each recertification.

The Daily Interface Report notifies CSEU of WMS transactions involving TA cases which are linked to IV-D cases. Automated referrals from TA to CSEU, through the Daily Interface Report and, in New York City, through the the New York City Way - OCSE system, report occurrences such as case openings and closings, category changes, and additions or deletions of individuals to cases. These automated referrals eliminate the need for paper referrals in almost all situations. However, in order to ensure the accuracy of the reports, TA must:

- a. Submit for data entry a DSS-2860 or, in New York City, data enter information in the New York City Way-OCSE system for each putative father and absent parent associated with each TA case;
 - b. In districts outside New York City, enter the appropriate WMS IV-D Indicator Code for each TA case which has been referred to the CSEU. In New York City, enter the appropriate WMS BCS Indicator for each individual. See Section VI for WMS instructions;
 - c. In districts outside New York City, use specific WMS Transaction Reason Codes, e.g., "950: Refusal to comply with IV-D" or "115: Absent parent's return"; and
 - d. In districts outside New York City, use WMS individual reason code "V30 - Failure to Comply With IV-D" for individuals who fail to cooperate with IV-D requirements.
2. CSEU worker responsibilities
- a. Daily CSMS IV-A/IV-D Interface Report

The daily interface report represents electronic

referrals of actions taken on TA cases which are linked to a IV-D case (including pending IV-D cases).

The CSEU must review the daily interface report and, in New York City, the Roster of IV-D Appointments and, for each TA case action reported, initiate any appropriate IV-D case action. When additional TA information is required, the CSEU worker must request the needed information from TA promptly. This request may be oral or written but, to expedite required case actions, requests should be oral whenever possible and documented in the case record.

b. Acting on information and requests

CSEU staff must take appropriate action on information referred from TA and Medicaid via the data-entered DSS-2860 in districts outside New York City, a LDSS-2859 referral or other means. CSEU staff also must respond promptly to TA and Medicaid questions and requests for information.

c. Notifying TA recipients

The CSEU or SCU must notify TA recipients who are receiving IV-D services of their right to be informed, upon request, of the time, date and place of initial and subsequent hearings or court proceedings to establish paternity or establish, modify or enforce a support obligation, as follows:

- (1) In all districts, a copy of the DSS-3908: "Important Notice Regarding Child Support" must be either given to TA applicants/recipients at the time of the IV-D interview or, for those cases in which an in-person interview is not required, sent to TA A/Rs after a IV-D referral is received. Districts must ensure that TA A/Rs understand that any necessary and/or appropriate petitions will be filed on their behalf, and that the court will be advised or requested to notify them of the date, time and place of any court hearing.
- (2) In districts where TA custodial parents customarily receive notification of or a summons for appearance at every court hearing or trial, no further action is necessary.
- (3) In districts where TA custodial parents are not customarily summoned for or noticed of every court proceeding, it is the CSEU's

responsibility to provide notice of the hearing date, time and place to the recipient.

- (4) The CSEU must ensure that the recipient is sent a copy of each summons, petition and hearing notice so that the recipient receives the notice prior to the hearing date. The CSEU also must ensure that the recipient is sent a copy of each order in their case.

d. Referrals to TA, Medicaid and CC

CSEU must notify TA, Medicaid or CC promptly of any information which may affect a household's eligibility or benefit amount. As described in the September 27, 1995 letter to all CSEU Coordinators, entry of certain status codes on the Status Information Screen triggers automated referral, via the weekly IV-D/IV-A Interface Report, of child support case changes which impact TA, Medicaid and IV-E FC cases. As needed, the CSEU must supplement the IV-D/IV-A Interface Report by providing additional information on a LDSS-2859 referral. Examples of situations which CSEU must refer via a LDSS-2859 include:

- (1) New and changed amounts and frequencies of support obligations
- (2) Dates and amounts of support received directly and retained by a TA recipient
- (3) Comments on pending good cause determinations
- (4) Responses to TA/Medicaid/IV-E FC/Non-IV-E FC/CC workers' requests for information

D. Exceptions to requirements to establish paternity and secure support

1. A district must not take action to establish paternity or establish, modify or enforce a support order when the child has been surrendered for adoption or, for a period of up to ninety days after the child's birth, when the A/R is being assisted by a temporary or licensed private social services agency to decide whether to surrender the child for adoption.
2. When a petition for the establishment of paternity has been filed but the putative father denies paternity, the district must defer any further paternity proceedings until sixty days after the child's birth. This deferral applies only to paternity proceedings for the newborn child.

Paternity and support proceedings for the A/R and other children in the household are not deferred.

NOTE: The TA worker must refer a TA A/R to the CSEU, via the DSS-2860, immediately upon learning that she is pregnant or has a newborn child and paternity and/or support establishment services will be required. The CSEU should initiate paternity and/or support proceedings, and the A/R should be encouraged to participate early in efforts to locate the absent parent or putative father and to establish paternity and a support order. Where a proceeding to establish paternity has been filed, however, and the allegation of paternity has been denied by the respondent, the district must stay all paternity proceedings until 60 days after the birth of the child. A/Rs must be informed that TA will not be denied or reduced during the stay on the basis of her refusal to cooperate with child support activities with respect to the unborn child. If she fails to cooperate, a sanction may not be imposed until after the child has been born and, if appropriate, added to the TA grant. Her Medicaid eligibility must be continued until the end of the 60 day postpartum period.

3. The TA, Medicaid or CC individual is excused from cooperating with efforts to establish paternity and secure support if such cooperation would be against the best interests of the child, i.e., "good cause" exists for refusing to cooperate. However, the district may proceed without the individual's cooperation in some circumstances. Good cause determinations are addressed in Section V.F.
4. The CSEU will not pursue paternity establishment or support enforcement in the case of a TA individual who has been granted a waiver of child support requirements on the basis of domestic violence, unless the domestic violence liaison has determined that the CSEU may proceed without risk to the victim or the victim's family. Please refer to 98 ADM-3 for more information concerning domestic violence policy and procedures.

A Medicaid-Only A/R is not required to complete a domestic violence screening; however, an A/R who indicates the possibility of a domestic violence situation should be evaluated under good cause provisions and informed of the availability of domestic violence services. Medicaid will honor any domestic violence waiver of child support requirements granted to a TA/Medicaid A/R.

5. A Medicaid-Only pregnant woman is not required to cooperate with efforts to establish paternity or secure support for

any of her children while she is pregnant or during the 60 day postpartum period. See Section V.B.2 for Medicaid-Only case requirements.

6. Persons applying at an outstation site for Medicaid-Only can not be sanctioned for failure to cooperate with the CSEU.
7. IV-E FC and Non-IV-E FC cases are not referred to the CSEU when certain circumstances are present, as described in Section V.B.3.b.(2), above.

E. Consequences of refusal or failure to cooperate

1. Opportunity to claim good cause

As stated in Section V.B, A/Rs must be informed of their responsibility to cooperate with the paternity establishment and support enforcement process, and of their right to claim good cause for refusing to cooperate. While the validity of a good cause claim is pending final determination, the A/R who claims good cause is excused from cooperating with the CSEU. In New York City, while a good cause claim is pending, the TA eligibility worker must change the BCS Indicator value to 'T - Temporarily No IV-D Referral', until a decision is made on the good cause claim.

Good cause can be claimed by TA, Medicaid and CC A/Rs at any time during the IV-D process. For example, a recipient who is being interviewed by a CSEU worker may claim good cause due to recent, potentially harmful events or circumstances which did not exist when the individual was initially referred to the CSEU.

Although good cause does not apply to IV-E FC or Non-IV-E FC cases, IV-E FC and Non-IV-E FC A/Rs can, at any time in the IV-D process, assert that child support should not be pursued in the A/R's case and request that the foster care services worker determine the appropriateness of referring the A/R's case to the CSEU, as described in Section V.B.3.b.(2) of this directive.

2. Penalties for non-cooperation

a. Temporary assistance

- (1) Failure of a TA A/R to cooperate to establish paternity or secure support on behalf of a household member results in a penalty equal to a 25 percent reduction in the household's TA standard of need for each non-cooperating

individual. The non-cooperating individuals are included in the household member count and all of their non-exempt income is applied in calculations of the household's TA eligibility and benefit amount. The new child support sanction budgeting methodology applies to sanctions imposed on or after October 19, 1998.

- (2) In the case of an individual who applies for or receives TA on behalf of a child but is not included in the grant, e.g., a person in receipt of SSI or sanctioned for an Intentional Program Violation, the individual's failure to comply with child support requirements results in the 25 percent reduction in the household's TA standard of need. This sanction budgeting methodology applies to IV-D sanctions imposed on or after October 19, 1998. For recipient households where the non-TA individual has failed to pursue paternity and support in the past, but no IV-D sanction could be imposed under the former sanction budgeting rules, districts will follow the instructions provided in V.E.2.a.(3), below.
- (3) A TA recipient whose needs have been removed from the TA household budget using an incremental sanction budgeting methodology due to an existing IV-D or other sanction, or non-TA payee for a TA household who fails to cooperate with child support requirements, must be informed in writing, no later than the next recertification, of the following:
 - (a) if the individual is a mandatory member of the TA filing unit and is otherwise eligible, his or her needs now must be included in the household's benefit calculation;
 - (b) continued failure to cooperate with child support requirements will result in application of the new TA IV-D sanction budgeting methodology; and
 - (c) continued failure to cooperate with Medicaid child support requirements will result in the individual's ineligibility for Medicaid. Timely and adequate notice must precede a Medicaid sanction.
- (4) TA workers will impose the new support

sanctions by calculating TA ABEL budgets as described in Section VI.B of this directive. Adequate and, for recipients, timely notice must be provided prior to effectuating a TA IV-D sanction.

- (5) The following examples illustrate the support sanction budgeting.

EXAMPLE 1: June Maye receives Family Assistance in Erie County for herself, her 17-year-old son; 16-year-old daughter, April; and April's nineteen-month-old son. June refuses to provide requested information about April's father, and April refuses to cooperate to establish her son's paternity. Neither June or April is claiming good cause. June receives \$60.00 biweekly unemployment benefits. The district computes the family's assistance as follows:

Standard of need (four persons)	\$609.00
Minus (2 X 25% = 50%) reduction for June's and April's non-cooperation	<u>-304.50</u>
Reduced standard of need	304.50
Minus unearned income	<u>-130.00</u>
TA deficit (rounded down)	174.00
Monthly TA grant	\$174.00

EXAMPLE 2: Clark Cable applies in Albany County for TA for himself and his daughter, Carrie Grant, whose mother lives in another state. Clark refuses to comply with the job search requirement and refuses to submit to genetic testing to establish Carrie's paternity. The TA grant for Carrie is calculated as follows:

Standard of need for 2 persons	\$480.00
Minus 25% reduction for Clark's IV-D non-cooperation	<u>-120.00</u>
Reduced standard of need	360.00
Prorata reduction for work rules non-compliance	<u>-180.00</u>
TA deficit	180.00
Monthly TA grant	\$180.00

b. Medicaid

- (1) Individuals applying for or receiving Medicaid-Only or Medicaid in conjunction with TA, other

than pregnant women and individuals in receipt of the six- or twelve-month transitional Medicaid extension, who do not cooperate with child support requirements are ineligible for Medicaid until they comply or indicate a willingness to comply, as described in Section V.E.3 of this directive. The Medicaid eligibility of the children of a non-cooperating parent is not affected.

- (2) For purposes of budgeting Medicaid-Only A/R cases, a legally responsible relative who does not comply with child support enforcement requirements is included in the case count, along with any applicable income and resources, but is ineligible for Medicaid until compliance.

c. Food Stamps

A TA recipient who fails to cooperate with child support requirements must have the household's food stamp benefit amount calculated by including as income that portion of the TA grant which is deducted for the IV-D sanction. An Upstate ABEL TA/FS budget with a FROM date of October 19, 1998 or after for a case with a IV-D sanction will automatically count the sanction amount as FS income.

d. Child Care

A CC A/R who, without good cause, fails to cooperate with child support requirements and who cannot demonstrate that he or she is actively pursuing support through private legal representation, or that he or she has good cause for not cooperating, will not be eligible for CC services.

3. Terminating a non-cooperation sanction

Non-cooperation sanction durations are open-ended, i.e., until compliance or until good cause is later claimed and determined to exist. A sanctioned individual who indicates a willingness to cooperate must take action to eliminate the basis for non-cooperation indicated on the LDSS-2859 and such other additional action which may have become necessary to have assistance provided or reinstated. When the individual cooperates, CSEU must notify the TA or Medicaid worker immediately, by sending an updated LDSS-2859, that the sanction must be ended.

Example: Mary Martin's case has been sanctioned as a

result of her refusal to submit to genetic testing and her failure to appear in court. On August 27, Ms. Martin complies with the genetic testing requirement and agrees to attend a court hearing scheduled for September 30. Only after Ms. Martin attends the court hearing does the CSEU notify the TA worker to end the IV-D sanction by recalculating the ABEL budget effective September 30.

F. Determining good cause for TA, Medicaid and CC

1. Definition of good cause for TA and Medicaid

a. A TA or Medicaid parent, caretaker relative, applicant or recipient may refuse, without penalty, to cooperate with paternity establishment and child support enforcement requirements when such cooperation would be against the best interests of the child. Following are the only circumstances under which "good cause" for non-cooperation may be found to exist:

- (1) Cooperation is expected to result in physical or emotional harm of a serious nature to the child for whom support is sought;
- (2) Cooperation is expected to result in physical or emotional harm of a serious nature to the parent/caretaker relative/grantee sufficient to impair the caretaker's ability to care for the child adequately;
- (3) The child was conceived as a result of incest or forcible rape; or
- (4) Adoption of the child is pending before a court, or the caretaker is receiving pre-adoption counseling services (for up to three months after the child's birth).

b. Special considerations apply with respect to a good cause claim based on emotional harm. In order to prove good cause for refusal to cooperate due to the expectation of emotional harm, the A/R must demonstrate that the emotional harm would have a substantial effect on the individual's ability to function. When evaluating emotional harm good cause claims, workers must consider:

- (1) The present emotional state of the individual subject to emotional harm;
- (2) The individual's emotional health history;

- (3) Intensity and probable duration of the emotional impairment;
- (4) The extent of cooperation with the child support enforcement process which would be required; and
- (5) With respect to emotional harm to the child, the extent to which the child would be involved in the paternity establishment and support enforcement activities.

2. Definition of good cause for CC

For CC purposes, good cause exists if pursuing child support would adversely affect the health, safety or welfare of the child on whose behalf child care payments are to be made or of other persons in the child's household.

3. Procedures for determining good cause

A TA, Medicaid or CC A/R who claims good cause for refusing to cooperate must sign the good cause notice (DSS-4279). The good cause claimant has the burden of proving that good cause exists, by specifying the circumstances which the claimant believes constitute good cause, providing corroborative evidence, and cooperating with investigation of the claim.

The TA, Medicaid or CC worker or an appropriate designee of the local district must determine whether good cause exists based on the claimant's evidence, the worker's own investigation, if needed, and recommendations from the CSEU. For TA A/Rs, the TA worker's good cause determination will apply to the individuals' Medicaid and CC Services eligibility as well. Medicaid workers will determine good cause for Medicaid-only cases. CC Services workers will determine good cause for CC-Only cases. For a CC A/R who is also a TA or Medicaid A/R, the TA or Medicaid worker's determination that good cause exists will apply to the individual's CC case as well. For a CC A/R who claims good cause but was denied good cause by TA or Medicaid, the CC worker must make a separate good cause determination because the criteria that constitute good cause for CC are more inclusive than the TA/Medicaid standard. For IV-E FC and Non-IV-E FC cases, Services workers must determine the appropriateness of referring each case to the CSEU, as instructed in Section V.B.3.b.(2) of this directive.

Specific steps of the TA/Medicaid/CC worker's good cause determination process are:

- a. For TA and Medicaid, notify the CSEU that an applicant has claimed good cause at the same time that the case is referred to CSEU. Note that an applicant who claims good cause is not referred in person to the CSEU while the good cause determination is pending. Report a recipient's good cause claim within two days of the claim. TA and Medicaid workers may notify CSEU of good cause claims by filling in the Good Cause Indicator on the DSS-2860 data entry screen or, for a case which has already been referred to the CSEU, by completing the good cause information in Section II of the LDSS-2859 referral form. Medicaid workers should notify CSEU of good cause claims by using the LDSS-2859.

For CC, the case of an individual who is applying for or receiving CC services only and who has claimed good cause is not referred to the CSEU, pending the CC worker's determination of whether good cause exists.

- b. Allow the good cause claimant 20 days from the day the DSS-4279 is signed in which to provide corroborative evidence. The worker must, upon supervisory approval, allow a reasonable additional period of time if the worker determines it to be necessary because the evidence is difficult to obtain.
- c. Good cause may be corroborated with the following types of evidence:
 - (1) A birth certificate or medical or law enforcement record indicating that the child was conceived as the result of incest or forcible rape;
 - (2) Court or other documents indicating that legal adoption proceedings are pending;
 - (3) A written statement from a public or licensed private social agency that it is assisting the parent to decide whether to release the child for adoption;
 - (4) Court, medical, criminal, law enforcement, child protective services, social services or psychological records indicating that the putative father or absent parent might inflict physical or emotional harm on the child or the caretaker;
 - (5) Medical records indicating the child's or

caretaker's emotional health history and present state, or written statements from a mental health professional licensed to practice in New York indicating a diagnosis or prognosis of the child's or caretaker's emotional health; or

- (6) Sworn statements from individuals (other than the claimant) with knowledge of the good cause circumstances. A "sworn" statement is signed before, and witnessed and signed by, a person who is empowered to administer an oath to the testifier. Persons authorized to administer oaths include notaries public, commissioners of deeds, judges, town justices and justices of the peace.
- d. Examine the evidence submitted by the claimant and, if additional evidence is needed to make a good cause determination, promptly notify the claimant of what specific type of evidence is needed.
 - e. If requested, advise the claimant how to obtain needed documents, and attempt to obtain any documents which the claimant is not reasonably able to obtain without assistance.
 - f. When no corroborative evidence is submitted or available, but the claim is based on anticipated physical harm, investigate the claim if, even without corroboration, the claimant's sworn statement is credible.
 - g. A worker may further investigate and verify any good cause claim when the claimant's sworn statement and evidence are insufficient to make a determination, i.e., the agency is not satisfied that it has adequate information to decide whether or not good cause exists.
 - h. If conducting an investigation and it is necessary to the determination and is approved by a supervisor, contact the putative father or absent parent. Before contacting the putative father or absent parent, consider whether the necessary information could be obtained from another source, and whether the absent parent is likely to be the most appropriate and objective source. For example, if a claimant alleges that an absent father has threatened to physically harm her, it is not reasonable or prudent to ask the absent father to corroborate her claim.

Also, before making such contact, the worker must notify and give the claimant the opportunity to:

- (1) submit additional evidence or information to make contact with the putative/absent parent unnecessary;
- (2) withdraw the application for assistance or request that the case be closed; or
- (3) have the good cause claim denied or withdraw the claim.

- i. For TA and Medicaid, prior to making a determination, the TA or Medicaid worker must afford the CSEU an opportunity to review and comment on the findings and proposed determination. Recommendations, if any, from the CSEU must be taken into consideration. If a written referral is necessary, districts may use the LDSS-2859 referral form.
- j. Pending determination, the CSEU must suspend all paternity establishment and support enforcement activities (including the intake interview of an applicant) for the child(ren) to whom the good cause claim pertains. However, child support services for the caretaker's other children should not be suspended.

The CSEU must update the CSMS IVDJSI screen to reflect that good cause has been claimed by entering the appropriate status code, e.g., G001, G002, etc. The CSEU must update the IVDJSI screen whenever the status of a good cause claim changes.

- k. TA or Medicaid may not be delayed, denied, reduced or discontinued pending a determination of good cause for refusal to cooperate, as long as the claimant is complying by furnishing corroborative evidence and information needed for investigation of the claim.

For CC, the application or recertification must be processed for a maximum authorization period of three months, pending a good cause determination. If good cause is established, the authorization period must be extended to the normal six or twelve month period.

- l. A final determination must be made within 30 days after the claimant signs the DSS-4279, unless the claimant was allowed additional time to provide verification. If additional time was allowed, the final determination must be made within 10 days

following the extended due date.

- m. The worker's final determination of whether good cause exists and the basis for the determination must be approved or disapproved by a supervisor in accordance with district procedures, documented in the case record and, for TA and Medicaid, reported to the CSEU within two business days of supervisory approval. The LDSS-2859 may be used to make this report to the CSEU.
- n. The final determination will be one of the following:
 - (1) Good cause for refusal to cooperate exists and the CSEU may not pursue paternity establishment or child support. When the basis for good cause is potential physical harm, the determination will be that the CSEU may not pursue paternity or support. In New York City, enter WMS BCS Indicator "G" for each child of the absent parent;
 - (2) Good cause for refusal to cooperate exists but CSEU's efforts to establish paternity and secure support without the TA or Medicaid individual's participation will not pose risk to the child or caretaker. Enter New York City WMS BCS Indicator "P"; or
 - (3) Good cause for refusal to cooperate does not exist. Enter New York City WMS BCS Indicator "A".
- o. The TA, Medicaid or CC worker must provide the claimant with written notification of the final determination and the basis for the finding. The notice also must inform the individual that:
 - (1) For TA or Medicaid, if the worker excuses cooperation but determines that CSEU activities may proceed without the A/R's cooperation, the individual may choose to withdraw the application or request to have the case closed.
 - (2) For TA or Medicaid, if the worker determines that good cause for refusal to cooperate does not exist, the individual may cooperate, withdraw the application or request to have the case closed, but continued refusal to cooperate will result in a sanction. If the individual does not respond or cooperate within five business days, provide notice of intent to impose a sanction as specified in Section V.E.

For CC, if the worker determines that good cause for refusal to cooperate does not exist, the individual may cooperate, withdraw the application or request to have the case closed, but continued refusal to cooperate will result in application denial or case closing. If the individual does not respond or cooperate within five business days, provide an application denial or ten-day notice of intent to close the case.

EXAMPLE: Mel Blank applies for TA for himself and his son, Frank, and claims good cause for refusing to comply with child support requirements. The TA worker notifies Mr. Blank of her determination that good cause does not exist and proceeds with the eligibility decision process. Having received no response from Mr. Blank, the worker opens the TA case for the Blanks and imposes the 25% sanction. Mr. Blank is not eligible for Medicaid but his son is.

- p. The district's fair hearing officer must notify CSEU and TA, Medicaid or CC of, and give each the opportunity to participate in, any hearing on an individual's appeal of a good cause determination or non-cooperation sanction. A recipient's timely request for aid-to-continue pending a fair hearing decision requires the district to stay the proposed action; pending an appeal of a good cause decision, the CSEU must suspend all paternity and support actions.

- q. TA, Medicaid and CC workers must review at each recertification each case in which good cause has been determined based on circumstances subject to change. For example, a good cause claim that was based on potential emotional harm to the caretaker and on the caretaker's emotional state six months ago should be re-evaluated at recertification. In districts outside New York City, workers may use Anticipated Future Action Code "328: Follow-up on Referral (Other)" as a reminder to review good cause determinations. TA and Medicaid workers must afford the CSEU with an opportunity to review and comment on a proposed redetermination of good cause, and must notify the CSEU within two business days of any change in a good cause decision.

3. Good cause record keeping

TA must retain records and submit quarterly reports to the Department of all applicants and recipients who claim good cause and all determinations made. Instructions for completing the required report and the report form, DSS-3343: "Quarterly Roster of Good Cause Claims", are included as Attachment E.

VI. SYSTEMS IMPLICATIONS

A. WMS instructions

1. WMS IV-D Indicator Code (districts outside New York City)

A IV-D Indicator Code of "Y: IV-D Case" or "X: IV-D Case to be excepted in the IV-D Monthly Mass Authorization" must be entered in screen 1 of the DSS-3636 or DSS-3209 for each TA case which includes a minor whose paternity has not been legally established or who has an absent parent. The "X" is used to prevent automated authorization of the pass-through payment and causes an Exception Report in the IV-D MRB/A. It is used at worker discretion.

For a TA case which is not required to be referred to the CSEU, the IV-D Indicator must be coded "N: Not a IV-D Case".

2. Data entry of DSS-2860 (districts outside New York City)

The information on each DSS-2860 referral must be data-entered in the Child Support Enforcement Referral Screen (WSVIVD), which is accessed from the WMS main menu through selection number 29, or from the system acknowledgment screen (WSYSAK) through special function key SF5.

3. WMS BCS Indicator (New York City)

The BCS Indicator in New York City WMS signifies the need for, and status of, a referral to IV-D for each individual under age 21 in a TA or Medicaid-Only case. If a IV-D referral is not required, the BCS Indicator denotes the reason. If an A/R claims good cause, the BCS Indicator is changed to correspond to the status of the good cause decision.

The following BCS Indicator values should be used as appropriate to case circumstances:

A - Appropriate for referral to IV-D

B - No referral: Both parents in household and paternity has been established

- D - No referral: Absent parent deceased and can not pursue estate for support
- G - No referral: Good cause has been established and IV-D may not pursue any child support activities
- P - Referral; good cause has been established but IV-D may proceed without the A/R's involvement
- T - Temporarily no referral: Good cause claimed and pending determination
- H - Head of household or other adult in household

4. New York City Way-OCSE System (New York City)

The New York City Way - Office of Child Support Enforcement system, when it becomes available, will be used for automated referral and appointment scheduling. The TA eligibility worker will access the Mapper System - NYC Way option in the Master Menu in WMS, list each child in the household and associate each child with an absent parent or putative father. The worker also will enter some basic information about each absent parent/putative father. The worker then will select the case suffix line and action code 940A to generate a IV-D appointment letter for the A/R, or action code 940B to generate only an automated referral when case circumstances require a referral but not an interview appointment.

B. ABEL instructions

1. Districts outside New York City

- a. TA ABEL instructions for IV-D sanction budgeting were included in ABEL Transmittal 98-3, and are summarized as follows:

The non-cooperating individual(s) are included in the household and case member count when preparing an ABEL budget. The "IV-D" field on the ABEL input screen is used to indicate the number of individuals (1, 2 or 3) who are non-compliant with child support enforcement requirements. ABEL will calculate a reduced monthly needs amount. All of the non-compliant individual(s)' countable income should be included in the ABEL budget for the case.

ABEL logic performs computation in the following sequence:

- (1) three-generation calculation
- (2) gross test (185%)
- (3) gross test (poverty level)
- (4) 25% IV-D sanction reduction
- (5) net income test

- (6) prorated sanction reduction
 - (7) learnfare reduction
 - (8) recoupments
 - (9) restrictions
- b. For TA FS budgets with a "FROM" date of October 19, 1998 or later, entry in the "IV-D" field of the ABEL TA input screen will result in calculation of the FS budget including the pre-sanction TA grant as income.
- c. For ABEL TA budgets, the following "Other/Unearned Income Source" Codes for support payments should be used as appropriate:
- 02: Alimony/Spousal Support
(not assigned; \$50 disregarded)
 - 06: Child Support Payments
(not assigned; \$50 disregarded)
(also used for unassigned military dependents' allotments when the serviceperson is not a member of the TA household)
 - 10: GI Dependency Allotment
(not assigned; no disregard - used when serviceperson is TA household member)
 - 13: Alimony/Spousal or Child Support assigned to Agency (Assigned; \$50 disregarded)
 - 17: Spousal Support - Arrears (not assigned; counted to reduce the TA grant but not counted in TA eligibility test)
- NOTE: When the amount of assigned support (minus \$50) is greater than or equal to the calculated budget deficit, or greater than or equal to the calculated surplus in a Gross Income Test failure, ABEL will generate a "W" in the Surplus/Deficit (S/D) field as a warning that the worker should further investigate the household's eligibility for TA.
- d. Erroneous pass-through payments and overpayments resulting from assigned support payments being received directly and retained by a TA recipient (other than unassigned support which is budgeted against TA needs) must be recouped using Recoupment Type Code "5: IV-D Payment".
- e. For ABEL Food Stamp budgets, child support pass-through payments are budgeted in the IV-D MRB/A as Other/Unearned Income Source Code "87: IV-D Payment".

2. New York City

a. TA ABEL budgeting for IV-D sanctions:

ABEL instructions for budgeting the 25% IV-D sanction will be transmitted under separate cover. ABEL modifications are scheduled for late July 1999. Until that time, the 25% sanction should be computed and input into a bottom-line budget.

b. If the TA A/R household is in receipt of support payments, two possible codes may be used to record this income on the Individual Screen (NSBL06):

14 - Alimony/Spousal/Child Support received by the client

61 - Alimony/Spousal/Child Support assigned to the agency

The total amount of support received must be computed and entered on a single line on the Individual Screen (NSBL06).

Code "14" income is treated by the system as follows:

The first \$50 received by the A/R household is disregarded by the system in determining TA eligibility and in calculating the TA grant. The entire amount received by the household is treated as unearned income in computing FS benefits.

Code "61" income is treated by the system as follows:

The first \$50 assigned to the support collection unit is disregarded by the system for the Gross Income Test. If the household passes the Gross Income Test, the entire amount assigned is disregarded in calculating the TA benefits.

In addition, Code "87": IV-D Bonus Payment income is system-generated and is treated as follows:

This code is entered by the automated IV-D Bonus Payment System. It represents the single issuance code 70 Bonus Payment - up to \$50 per month received by the household as a pass through of support collected by the agency on the family's behalf. Code "87" income is exempt for TA but counted as unearned income for Food Stamps. This income code and amount should not be changed by the eligibility worker.

These fields are updated monthly by the automated system. Only one Bonus Payment is allowed for each suffix. If Code 87 income has been entered for more than one individual within the same suffix, error message "MORE THAN 1 INC SRC 87 EXISTS FOR TA SUFFIX" will be displayed upon transmission. The worker should determine which entry is correct and remove the incorrect entry. If the incorrect entry is on the current screen remove the entry and proceed. If the erroneous entry is on a previous Individual Screen, press the Menu Key and use Action Type 08 (Recalculate) on the Budget Menu Screen (NSBL00) to access the previous Individual Screen. Erase the erroneous entry, proceed to the correct Individual Screen and reenter the Code "87" income. If code "87" income is removed, the warning "SUPPORT INCOME EXISTS FOR INDIVIDUAL" appears. Upon retransmittal the warning will be removed and the next screen requested will appear.

Support payment codes 14 and 61 generate end dates three months from the effective date. The worker should contact the IV-D Unit or the client to determine the status of the support payments.

EXAMPLE:

\$300 per month is assigned to the agency for child support. \$50 out of this amount is received by the client. After update, Individual Screen (NSBL06) appears as follows:

SRC	<u>61</u>	GROSS	<u>30000</u>	FREQ	<u>1</u>	PROG	<u>P</u>
SRC	<u>87</u>	GROSS	<u>5000</u>	FREQ	<u>1</u>	PROG	<u>F</u>

In this case the system applies \$250 from Code 61 to the TA Gross Income Test only. \$50 from Code 87 is budgeted toward the FS calculation only.

C. Client Notices System (CNS) (districts outside New York City)

TA and Medicaid workers should enter code 'V30 - Failure to Comply with IV-D' in the "TA/Medicaid individual reason code" field on screen 3 of WMS to designate the individual(s) not in compliance with IV-D requirements. Single or multiple person cases in which an individual's IV-D sanction contributes to, or is coincidental with, the case being denied or closed should be coded using case reason code 'V30' and entering the appropriate CNS pending notice number on screen 1 of WMS. Cases that remain active following an individual's IV-D sanction currently require that a manual notice be sent.

D. BICS (districts outside New York City)

To ensure that pass-through payments are issued in a timely manner and that timely and adequate notice of any resulting reductions in food stamp benefits are provided, as appropriate, districts must request a first BICS run of IV-D pass-through checks immediately upon receipt of the monthly IV-D MRB/A "eligibles" list from the CSEU. Subsequent BICS runs of IV-D checks must be requested at least weekly for the remainder of each month to process the "exceptions" cases and re-issuances of lost or stolen checks. All pass-through payments, including manually authorized "exceptions" payments, must be issued by the 20th calendar day of each month.

VII. ADDITIONAL INFORMATION

A. A glossary of child support terms is included on-line as Attachment A.

B. Forms availability

Samples of the following forms are attached:

<u>Form # and</u> <u>Revision Date</u>	<u>Title</u>	<u>Attachment</u>
DSS-2521 (9/83)	Application for Child Support Services	B
LDSS-2859 (9/98)	Child Support Information Transmittal	C
DSS-2860 (5/87)	Child Support Enforcement Referral	D
DSS-3343 (4/81)	Quarterly Roster of Good Cause Claims	E
LDSS-4281 (9/98)	Attestation To Lack of Information	F
IV-E FC and Non-IV-E FC:	Notification Regarding Your Responsibility to Provide Child Support (on-line)	G
IV-E FC and Non-IV-E FC:	Foster Care Child Support Referral Determination Form (on-line)	H

Districts may request supplies of forms DSS-2521, 2859, 2860, 3343, 3908, 4279 and 4281 through normal ordering procedures. Clear photocopied masters of Spanish versions (DSS-4279S and LDSS-4281S) also may be requested by each district which requires Spanish notices. Districts will reproduce Spanish forms locally.

VIII. EFFECTIVE DATE

New procedures transmitted in this directive are effective July 15, 1999. The new TA sanction budgeting rule was effective October 19, 1998. Foster Care child support requirements have been in effect since August 16, 1995. The CC child support requirements are effective when the CC regulations are filed; districts will be notified of the filing.

Brian J. Wing
Commissioner
Office of Temporary and
Disability Assistance

John A. Johnson
Commissioner
Office of Children and Family
Services

Donna B. Farlow
Deputy Director
Office of Medicaid Management

GLOSSARY

- 60 day postpartum period: the 60 days following the end of the pregnancy and the remainder of the month in which the 60th day occurs
- absent parent: the biological parent, stepparent or adoptive parent of a child who is not residing with the child. For a child in foster care, "absent parent" also includes a biological parent, stepparent or adoptive parent who was present in the household when the child entered foster care.
- arrears: unpaid child support for past months owed by a parent who is under court order to pay
- assignment: transfer of support rights
- court-ordered support: legal obligation of a non-custodial parent to pay a support amount for his or her child
- current support: payment collected, as determined by its date of collection, toward the obligation amount for that month
- custodial parent: person with whom a child lives; may be a parent, relative or guardian
- former custodial parent (for foster care): the parent to whom a court order granted legal custody, including joint custody, of the child if such order was in effect when the child entered foster care or will be entering foster care, or, where no court order granting legal custody exists, the parent who had physical custody of the child immediately prior to the child's entering foster care
- non-custodial parent: parent who does not live with a child, but is legally responsible for providing financial and medical support
- non-custodial parent (for foster care): the parent who has had legal custody of the child transferred from him or her by court order prior to the child's entering foster care, or, where no court order granting legal custody exists, the parent who lived separate and apart from the child when the child entered foster care
- paternity establishment: legal determination of fatherhood
- temporary assistance: cash assistance programs including Family Assistance, Safety Net Assistance and Emergency Assistance to Needy Families with Children
- putative father: man alleged to be the biological father of a child
- respondent: person against whom a petition is filed

IV-E FC and Non-IV-E FC Model Notice

Notification Regarding Your Responsibility to Provide Child Support

This is to inform you of your obligation to provide child support for your (child) (stepchild) _____ who has recently entered or is about to enter foster care. There is an obligation to provide child support regardless of whether your child or stepchild resided with you or did not reside with you prior to entry into foster care. Your foster care caseworker will provide you with information about this obligation and about the need to make a referral to the Child Support Enforcement Unit (CSEU) in this social services district. The CSEU may petition the court for an order of support.

However, in certain circumstances a referral to CSEU may be contraindicated if:

it is determined that such referral will adversely affect the health, safety or welfare of the child on whose behalf such payments are to be made or other persons in the child's household, or will adversely affect the length of the child's placement or impair the ability of the child to return home when discharged from foster care.

Your foster care caseworker will make an assessment of your circumstances and will let you know whether a referral to the CSEU will be made. It is important to cooperate with this assessment and provide the information your caseworker needs. It is also possible you will be referred to CSEU at a later time if your circumstances change.

IV-E FC and Non-IV-E FC Model Form

FOSTER CARE CHILD SUPPORT REFERRAL DETERMINATION FORM

Section I:

Foster Child's Name: _____

Case Number: _____

Check () only one box. Complete a separate referral determination form for each absent parent.

Absent Parent Name: _____

_____biological mother

_____biological father

_____step mother

_____step father

_____adoptive mother

_____adoptive father

Social services districts are prohibited from making referrals of approved applications for foster care maintenance payments to the child support enforcement unit of the social services district under specific circumstances. If one or more of these circumstances are found in the child's foster care case, please check () and provide details in Section II.

_____ (1) if the appropriate social services official determines that such referral will adversely affect the health, safety or welfare of the child on whose behalf such payments are to be made or other persons in the child's household or will adversely affect the length of the child's placement or impair the ability of the child to return home when discharged from foster care;

_____ (2) when a surrender of a child born out of wedlock has been accepted by the appropriate social services official from the mother or father of such child, the parent surrendering the child must not be referred to the child support enforcement unit of the social services district;

_____ (3) in the case of a non-adopting spouse, when a non-adopting spouse is living separate and apart from an adopting spouse pursuant to a written agreement of separation or when a non-adopting spouse has been living separate and apart from an adopting spouse for at least three years prior to the adopting spouse's commencing an adoption proceeding.

Section II:

EXPLAIN: _____

Note: A determination not to make a referral and the reason therefor must be documented in the uniform case record.

For the reason(s) checked in Section I and documented in Section II, the absent parent* listed on this form is not being referred to the Child Support Enforcement Unit (CSEU) for child support services in connection with the foster care placement of the child listed on this form.

signature

date

*absent parent is defined in subdivision (a) of section 347.2 of 18 NYCRR and reads as follows:

(a) Absent parent. An absent parent includes the biological parent, stepparent or adoptive parent of any child where such parent is reported to be absent from the household. With respect to a child in foster care, an absent parent also includes a biological parent, stepparent or adoptive parent of any child where such parent was present in the household when the child entered foster care.