



Office of Temporary and Disability Assistance

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Administrative Directive

Section 1

Transmittal:	17-ADM-09
To:	Social Services District Commissioners
Issuing Division/Office:	Child Support Services
Date:	November 28, 2017
Subject:	Continuation of Child Support Services to Former Foster Care Cases
Suggested Distribution:	Child Support Enforcement Coordinators Support Collection Unit Supervisors Foster Care Supervisors Temporary Assistance Directors Medicaid Directors IV-D Attorneys DSS Attorneys
Contact Person(s):	Child Support Services – County Representative: Albany (518-473-0574) or New York City (212-961-8269) Office of Legal Affairs: 518-474-9502
Attachments:	Attachment 1 – Continuation of Child Support Services Notice Attachment 2 – LDSS-2859, Information Transmittal Attachment 3 – Guidance Document for the Continuation of Child Support Services After the Termination of Foster Care
Attachment Available Online:	<input checked="" type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
99 ADM-5 12-ADM-03		18 NYCRR §§ 347.17; 422.5	Family Court Act § 571; 45 CFR § 302.33(a)(4)		Dear Colleague letter issued December 18, 2001; Dear Colleague letter issued June 19, 2006

Section 2

I. Summary

This Administrative Directive (ADM) advises districts of changes resulting from the adoption of the federal *Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs* (Final Rule) dated December 20, 2016, that impact: (1) the provision of child support services to former foster care (FC) cases; and (2) the notice requirements concerning the continuation of services for former Title IV-A, Medicaid, and FC cases.

Information regarding the effect of the provision of services changes upon the Child Support Program is provided. Notice and form revisions resulting from the changes are addressed in this ADM.

II. Purpose

The purpose of this ADM is to advise local district child support enforcement units/support collection units (collectively CSEUs) of changes under the Final Rule to the provision of child support services for former FC cases (i.e., in the care and custody or guardianship and custody of the Department of Social Services [DSS] commissioner or a designee). This release is applicable to a child who is finally discharged from FC. This release does not apply to a child in trial discharge status. The Final Rule changes provide that state child support enforcement agencies (i.e., IV-D agencies) have discretion to establish criteria for determining when continued services and notice are not appropriate for former FC cases.

In addition, this ADM advises CSEUs of required changes to the *Continuation of Child Support Services* notice (**Attachment 1**), which is sent when certain Temporary Assistance (TA), FC, or Medical Assistance (MA) cases have been closed. The notice must now contain information about the benefits of continuing to receive child support services. Further, this ADM updates the instruction provided in 12-ADM-03, issued May 1, 2012, titled *Information about Child Support Services and Application/Referral for Child Support Enforcement Services*, requiring the CSEU to continue to provide federal Title IV-D services to any individual who has been systematically sent a continuation of services notice.

Finally, this ADM advises CSEUs of a change to the LDSS-2859, *Information Transmittal* (**Attachment 2**), to include a field for the address of the custodian of the child. The LDSS-2859 is the primary tool for communications between the Child Support Program and the referring program(s).

III. Background

Continuation of Child Support Services: As of February 26, 1991, State child support enforcement agencies were required to provide appropriate notice and to continue to provide child support services to persons no longer eligible for assistance under the state's Title IV-A, FC, and Medicaid programs. Within five (5) working days of the support collection unit's receipt of notification of the family's ineligibility from the district, the IV-D

agency was required to notify the family that child support services would continue unless the IV-D agency was notified to the contrary by the family. The notice informed the family of the consequences of continuing to receive IV-D services, including the available services and the state's fees, cost recovery and distribution policies.

The Final Rule revised provisions at Title 45 Code of Federal Regulations (CFR) § 302.33(a)(4) concerning the continuation of child support services. Effective December 20, 2017, the requirement that the IV-D agency notify the family of the continuation of child support services within five (5) working days of the notification of ineligibility will apply to families previously in receipt of Title IV-A and/or Medicaid assistance and to certain families where the child is no longer eligible for FC. Pursuant to the Final Rule, notice for former FC cases is required only in those cases where the child support enforcement agency determines that such services and notice would be appropriate. In addition, 45 CFR § 302.33(a)(4) was revised to require that the notice provide information about the benefits of continuing to receive child support services.

The *Continuation of Child Support Services* notice is systematically generated based on several factors, including certain changes in the *IV-A Case Stat* on the *Case Information* record in the Automated State Support Enforcement Tracking System (ASSETS). For more information, refer to the *Dear Colleague* letter dated June 19, 2006.

New or Changed Information about a Previous FC Referral: Title 18 New York Codes, Rules and Regulations (NYCRR) § 422.5(d), requires the district to notify the CSEU of any new or changed information regarding a previous FC referral to the CSEU, including:

- a change in the placement of the child;
- a change in the costs of FC;
- discharge of the child from FC;
- any change in the status of the foster child, including but not limited to, trial discharge, legal detention, absence from FC without consent, hospitalization, or that FC payments are no longer being made for the child; and
- surrender for adoption when the foster child born out of wedlock, or the completion of the adoption of the foster child.

99 ADM-5, issued July 1, 1999, titled *Cooperation with Child Support Enforcement for Temporary Assistance, Medicaid, Foster Care and Child Care Services Applicants and Recipients*, placed the duty outlined in 18 NYCRR § 422.5(d) upon FC workers to inform the CSEU of circumstances that change or new information that may impact support payments and provide necessary documentation. The FC worker must inform the CSEU of such changed circumstances or new information through use of the LDSS-2859.

IV. Program Implications

Federal regulations at 45 CFR § 302.33(a)(4) provide state child support enforcement programs with additional flexibility to determine when it is appropriate to notify a family in which a child no longer receives FC maintenance payments of the continuation of child support services. For example, it would not be appropriate to notify the family of the continuation of services when the child has been reunited with the intact family.

V. Required Action

A. FC, Medicaid, and TA Worker Actions

In FC cases, the recipient of child support services is the Commissioner or Designee of the local district. Therefore, the *Continuation of Child Support Services* notice for a FC case will typically be sent to the Commissioner on behalf of the child in FC, or to the child in care of the Commissioner, at the local district address. As such, when the continuation of services notice for an existing FC case is received at the local district address, it may be delivered to another social services program. In this situation, the recipient must promptly forward the notice upon receipt to the CSEU.

In addition, FC, MA, and TA workers must respond to, and take appropriate action with respect to, requests for information from the CSEU (refer to 18 NYCRR § 422.5[d][8] and 99 ADM-5). Note: With the revision to the LDSS-2859, FC workers must now provide the mailing address of the custodian when the child is discharged from FC.

B. CSEU Worker Actions

Upon receipt of the *Continuation of Child Support Services* notice, the CSEU must determine whether it is appropriate to continue to provide child support services. If it is appropriate to continue services, the CSEU worker must forward the continuation of services notice to the parent with whom the child is residing post-discharge or to the parent who previously received child support services and to whom support arrears/past due support is owed.

To determine whether it is appropriate to continue to provide child support services and forward the continuation of services notice, the CSEU must take the following steps in the order indicated. For purposes of this discussion, “post-discharge custodian” shall mean the person with whom the child(ren) reside(s) after discharge from FC.

1. Parent has previously received child support services

Determine whether the New York Case Identifier listed on the *Continuation of Child Support Services* notice is associated with a parent who received child support services prior to the child(ren)’s placement in FC. If a parent previously received child support services and there are still support arrears/past due support owed to that parent, commence enforcing the

support arrears/past due support and send the parent the *Continuation of Child Support Services* notice.

2. Receipt of TA and/or MA post-discharge

- a. Determine whether the post-discharge custodian and/or the child are receiving TA and/or MA. If there are multiple children, determine if the post-discharge custodian(s) and all or some of the children are either receiving TA and/or MA or are still in FC.
 - i. Determine the name and address of the post-discharge custodian by reviewing the LDSS-2859 notifying the CSEU of the discharge from FC. If the CSEU has not received an LDSS-2859 or if the information is not provided, the CSEU must contact FC to request completion of the LDSS-2859, including the name and address of the post-discharge custodian.
 - ii. Review the case record(s) on ASSETS to determine if post-discharge custodian(s) and all or some of the children are either receiving TA and/or MA or are still in FC.
 - iii. If post-discharge custodian(s) and all children are either receiving TA and/or MA or are still in FC, child support services will continue for the case automatically and the CSEU does not need to forward the *Continuation of Child Support Services* notice.

3. The child, or all the children if multiple children, reside together post discharge

- a. Determine if the post-discharge custodian is a parent.
 - i. Determine the name and address of the post-discharge custodian by reviewing the LDSS-2859 as described in Section V.B.2.a.i. above.
 - ii. Review the case record on ASSETS to determine if the post-discharge custodian is a parent.
 - iii. If the post-discharge custodian is not a parent, the CSEU does not need to forward the *Continuation of Child Support Services* notice.
 - iv. If the child(ren) are residing in an intact household, the CSEU does not need to forward the *Continuation of Child Support Services* notice. The **only exception** is when a parent of the child(ren) residing in the intact household has previously received child support services, and there are still support

arrears/past due support owed to that parent (refer to Section V.B.1).

- b. Review the account to determine whether there is an order for current support payable by a parent (“obligor parent”). The CSEU should review the order(s) of support to determine whether the support obligation of the parent(s) terminates upon the release of the child(ren) from FC. If the support obligation terminates upon the release of the child(ren) from FC, the CSEU must perform account maintenance as necessary to terminate the collection of current support.
 - i. If there is no order for current support payable by a parent, the CSEU does not need to forward the *Continuation of Child Support Services* notice unless a parent has previously received child support services and there are still support arrears/past due support owed to that parent (refer to Section V.B.1.).
 - ii. For example:
 - (1) If the child(ren) who is (are) the subject(s) of the order of support are emancipated, no notice should be sent.
 - (2) If the biological parent’s liability for support terminates due to adoption of the child, no notice should be sent.
 - (3) If the order is payable by a stepparent, no notice should be sent.
- c. If the post-discharge custodian is a parent and the other parent is an obligor parent then, after redirection of the payments to the post-discharge custodian, the *Continuation of Child Support Services* notice must be sent to the post-discharge custodian.

4. The children do not reside together post-discharge

Situations where there are multiple children who are not all discharged to the same household may require court proceedings to allocate the support obligation if, one (1) child is discharged from FC and the other(s) are not; one (1) child is in receipt of TA and/or MA and the other(s) are not; or the children reside in different households after discharge.

- a. The rule in Section V.B.3.c. above applies in multiple child situations if the order for current support is payable on behalf of only the child(ren) residing with “Parent A” as the post-discharge custodian. That is, the order for current support does not include support for a child residing in another household; a child receiving TA and/or MA; or a child still in FC. If the order is on behalf of any child(ren) still in FC, receiving TA and/or MA, or not residing with Parent A, child

support services would not continue unless or until a court allocates the support obligation.

- b. It is possible that both parents could have child support obligations and each have post-discharge custody of a child. A *Continuation of Child Support Services* notice should be sent to each parent if the respective order for current support in each household:
- is payable on behalf of only the child(ren) residing with the post-discharge custodian; and
 - does not include support for a child receiving TA and/or MA; or a child still in FC.

5. CSEU is not required to forward the notice

If the CSEU is not required to forward the *Continuation of Child Support Services* notice, the CSEU must retain the notice in the case records and so document the remarks of the case records. The CSEU must then perform account maintenance as necessary.

6. CSEU is required to forward the notice

If the CSEU is required to forward the *Continuation of Child Support Services* notice, the CSEU must document that action in the remarks of the case record and perform any necessary actions to take the next step in providing child support services, including account maintenance (conversion of ledgers, redirection of payments). That is, the presumption is that the recipient of services will wish to continue to receive child support services.

7. Child Support Services to be discontinued

If the CSEU is notified that the parent does not wish to continue to receive child support services, the CSEU must notify the parties to the order that the continuing support obligation due and/or support arrears/past due support remaining due to the recipient of services are being redirected to the recipient of services before the case is prepared for case closure (instructions for redirection of payments to the recipient of services may be found in 98 ADM-2, issued March 4, 1998, titled *Change of Payee Policy & Procedure for Child Support Enforcement*).

C. Continuation of Services Guidance Document

A guidance document titled *Guidance Document for the Continuation of Child Support Services after the Termination of the Foster Care (Attachment 3)* is included with this ADM. This guidance document will assist CSEUs in identifying when it is appropriate to forward the *Continuation of Child Support Services* notice.

D. Building New FC Cases

The CSEU must ensure that new FC cases are built using the following protocol for the custodial parent name and mailing address which directs the notice to the physical location of the CSEU rather than to the physical location of the DSS commissioner or any other program area:

Name of child
c/o Commissioner of DSS
Street Address of CSEU
City, State, Zip Code

VI. Systems Implications

There are no systems implications.

VII. Additional Information

The LDSS-2859 has been revised to include a field for the address of the custodian of the child. The revised LDSS-2859 will be made available on the *Forms* page of the Electronic Resource System (ERS), under *Intake*. In addition, the revised LDSS-2859 will be available through the Office of Temporary and Disability Assistance (OTDA) CentraPort for workers to print, complete, and issue.

Any remaining stock of the LDSS-2859 must be destroyed.

VIII. Effective Date

This ADM is effective immediately. The revised LDSS-2859 is effective immediately for the transmittal of information between child support, TA, MA, FC, and other local district programs.

Issued By

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