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| LOCAL COMMISSIONERS MEMORANDUM |  
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Transmittal No: 91 LCM-225

Date: December 27, 1991

Division: Family & Children  
Services

TO: Local District Commissioners

SUBJECT: Chapter 198 of the Laws of 1991: Prescribed Forms for Use by  
the Family Court

ATTACHMENTS: Administrative Order of the Chief Administrator of the  
Courts, including prescribed forms (not on-line)

This is to inform you that the New York State Office of Court Administration has issued an administrative order to all of the State's Family Courts prescribing forms for use in Family Court proceedings affected by Chapter 198 of the Laws of 1991. The administrative order, which was effective on September 30, 1991, provided the Courts with copies of the revised prescribed court order forms. A copy of the administrative order and the set of forms is attached to this LCM.

Because the implementation of Chapter 198 is so critical to continued compliance with federal requirements for eligibility for foster care reimbursement under Title IV-E, we wanted you to be aware of the role of the Family Court in its implementation. If you should encounter problems or if your Family Court(s) is not appropriately using the prescribed forms, please notify this Department.

Chapter 198 amended Articles 3, 7 and 10 of the Family Court Act and Sections 358-a and 392 of the Social Services Law to require that the court consider and expressly specify in its order:

1. whether continuation of a child in the child's home would be contrary to the child's best interest;

2. whether reasonable efforts were made, where appropriate, to prevent the placement of a child into foster care or to make it possible for a child in foster care to return home; and

3. in the case of a foster child age sixteen or older, the services needed, if any, to assist the child to make the transition from foster care to independent living.

The mandate that specific language be included in the court order is consistent with recent interpretations of the requirements of Title IV-E of the Social Security Act by the federal Department of Health and Human Services. Over the past several years, the federal government has taken over 32 million dollars in disallowances against the State because court orders in the cases selected for review did not contain these findings. The Department disagrees with the federal interpretation of the Social Security Act and is taking the appropriate appeals to challenge the disallowances. Chapter 198 was intended to prevent future federal fiscal sanctions/disallowances.

Chapter 198 does not impose any new requirements on you, unless you have some direct responsibility for drafting court orders. It does not change the long-standing requirement that you undertake reasonable efforts to prevent placement and/or to return children to their families, and to inform the Family Court of those efforts. The federal requirements concerning foster children who have attained the age of sixteen were described to you in 90-ADM-32, which directed districts and agencies to inform the Family Court in their petitions of any services needed/provided to facilitate the child's transition to independent living. However, it is incumbent on you to ensure that the orders issued by your Family Court include the required language, as any federal sanctions/disallowances resulting from failure to do so will result in a loss of reimbursement to the social services district. You are encouraged to return to Court in cases where the order does not contain the required language and to inform the Court of the need for same. Please instruct your legal staff to work closely with the Court to ensure compliance.

Please contact your Family & Children Services Regional Office if you have any questions or if you experience any difficulty with your Family Court in implementing these requirements. We will take up any such issues with the Office of Court Administration.

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Joseph Semidei  
Deputy Commissioner  
Family and Children Services