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TRANSMITTAL: 92 INF-25

DIVISION: Adult Services

TO: Commissioners of  
 Social Services

DATE: April 2, 1992

SUBJECT: Family Type Homes for Adults: Clarification of  
 Regulations Regarding Closing Plans

SUGGESTED

DISTRIBUTION: Directors of Services  
 Adult Services Staff  
 Family Type Home Coordinators  
 Staff Development Coordinators

CONTACT PERSON: Any questions concerning this release should be  
 directed to Thomas Burton, Division of Adult  
 Services, 1-800-342-3715, ext. 432-2987.

ATTACHMENTS: None

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
89 ADM-22		458	Article 7		
85 ADM-36		485			
		486			
		489			

One of the issues that has arisen recently with regard to Family Type Homes for Adults concerns the voluntary closing of homes. The issue is dealt with briefly in Section 489.4 of the Department's regulations. Subdivision (h) states that an operator who elects to close a Family Type Home and surrender the operating certificate must give written notice, including a plan for closure, to the local department of social services at least 120 days before the expected closing date. The regulations further state that closure must be in accordance with the requirements set forth in subdivision (j) of Section 485.5 of the Department's regulations. However, it appears that some operators and local social services district staff are not familiar with the requirements in Section 485.5(j). The purpose of this transmittal is to clarify for districts the responsibilities of operators and local social services districts when a Family Type Home is closed voluntarily.

The following requirements for voluntary closure are found in Section 485.5(j) of the Department's regulations.

1. The closure plan must include timetables and must describe the procedures and actions the operator will take to:
  - (a.) notify residents of the closure, including provisions for termination of admission agreements and involuntary discharge;
  - (b.) assess the needs and preferences of individual residents;
  - (c.) assist residents in locating and transferring to appropriate alternative settings; and
  - (d.) maintain compliance with these regulations until all residents have relocated.
2. The operator shall take no action to close the facility prior to local department of social services' approval of the plan for closure.
3. The operator shall implement the approved plan to insure that arrangements for continued care which meets each resident's social, emotional and health needs are effectuated prior to closure.
4. Failure to notify the local department of social services of intent to cease operations, failure to submit an approvable plan, to execute the approved plan, closure before all residents have been appropriately relocated, or failure to surrender the operating certificate to the local department of social services may result in the imposition of civil penalties.

As part of their responsibilities under Parts 458, 485, 486, and 489 of the Department's regulations, the local department of social services is responsible for monitoring the closing of a Family Type Home, assisting in arranging for appropriate alternative placements for residents, assuring that all of the residents have been relocated, and securing the operating certificate when all of the residents have been relocated.

There are no provisions for a Family Type Home for Adults operator to transfer an operating certificate to a new operator. In the event that an operator wishes to move and/or sell the home and someone else is interested in being certified in the same location, the home must be closed in accordance with the requirements set forth above and the new applicant must apply for certification without any residents in the home.

In the event of the death of a Family Type Home operator, Section 485.5(k) of the Department's regulations governs the procedures to be followed if the operator's spouse or another family member wishes to be certified to continue to operate the Family Type Home.

1. The local department of social services may give approval to a plan submitted by the operator's spouse or other family member(s) for the continued operation of the home, on a temporary basis, under the outstanding operating certificate.
2. Such plan must be submitted within 30 days of the death of the operator and must include notice of intent from the spouse or family member(s) to file an application for a new operating certificate and a proposed timetable for application or a plan for closing the home.
3. The proposed timetable for application may not exceed 90 days unless the applicant can demonstrate that extension is necessary. Approval under this subdivision to operate the home shall continue only while the home is in compliance with regulations.

As part of their responsibilities under Parts 458, 485, 486, and 489 of the Department's regulations, the local department of social services is responsible for assisting the spouse or other family member(s) in applying for certification or in closing the home and relocating the residents as necessary.

The Department recommends that appropriate local social services district staff familiarize themselves with the closing requirements set forth above. In addition, staff should advise operators of the requirements for voluntary closure, since the Department may seek to impose a fine of up to \$1,000 per day for failure to close in accordance with the Department's regulations.

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William E. Gould  
Acting Deputy Commissioner  
Division of Adult Services