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| LOCAL COMMISSIONERS MEMORANDUM |
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DSS-4037EL (Rev. 9/89)

Transmittal No: 95 LCM-40

Date: April 12, 1995

Division: Services and
Community
Development

TO: Local District Commissioners

SUBJECT: Preventive Services: Inter-District Transfers

ATTACHMENTS: None

This memorandum is intended to provide you with guidance on actions to take when families receiving Preventive Services move from one social services district to another. This communication is in response to questions raised regarding social services districts' responsibilities when such occasions occur.

Neither present Social Services Law (SSL) nor Department regulations address directly the issue of inter-county/inter-district responsibilities when a family receiving Preventive Services moves from one social services district to another. The Department has always encouraged notification and transfer of relevant case planning information when such moves occur, but there is no requirement that districts must perform these steps. It would, however, be a matter of good practice to do so.

While there is neither specific statute nor regulation regarding inter-district transfers for services, there have evolved some clear practice guidelines with regard to Foster Care and Child Protective Services (CPS). When the family of a child in Foster Care moves out of the district from which the child entered Foster Care, that district still retains responsibility for the child including financial, legal, and case management responsibilities so long as the child remains in the custody of the local commissioner of the local district. Good practice would have the district from which the child's family has moved notify the district where the family currently resides in order to alert them to possible services needs.

However, only when there is a transfer of custody from the district where the child entered Foster Care would the district to which the family has moved be responsible for any Foster Care related services for the child in care. This would include services directed at returning the child in foster care to his or her home. The district with custody of the child may request the county in which the family lives to assist, but the custodial county continues to remain accountable and responsible for services to the family. Of course, if another child in the family should need Foster Care or the family needs other services than those related to the child(ren) in custody, the "where found" standard of Social Services Law Section 395 would apply and the district where the family currently resides would be responsible for taking an application for services, determining any necessary eligibility, and assessing needs and developing plans with the family.

For CPS, when a reported family (whether "under investigation" or "indicated" and receiving services) moves from one district to another, the case will be transferred through the State Central Register to the district in which the family currently resides. The transferring district relinquishes case responsibility and legal accountability. Procedures for CPS transfers are set out in the Child Protective Services Program Manual, Page VIII-J-4 and Pages VIII-M-1 through VIII-M-3.

With regard to Preventive Services, the issue hinges on the local district responsibility set forth in Section 409-a of the SSL. Section 409-a(1) states, in part, that a social services official "shall provide preventive services to a child and his or her family...upon a finding by such official that..." the circumstances of the child/family satisfy the eligibility test for Preventive Services. Section 409-a(2) states that a social services official "is authorized to provide preventive services to a child and his family...when such services are not required to be provided pursuant to subdivision one [SSL 409-a(1)]...".

These provisions confer on each social services district (local social services official) the authority and obligation to determine the need for and eligibility for Preventive Services. Because this authority is granted to each social services district, a determination in one district is not binding on another district. When you receive information from another district with regard to a family which had been receiving Preventive Services, you are not obligated to accept the first district's determination.

However, good practice should lead you to assess the notification and referral. In making this assessment, it would be reasonable to assume that the referring district made an appropriate determination based on the eligibility standards contained in Department regulation Section 430.9 and the procedural requirements in Department regulation Part 423. Except where the family's move specifically lessens the risk of Foster Care on which the referring district's determination of eligibility for Preventive Services was based, the basis for the earlier determination would be directly applicable to your assessment of the family's need for Preventive Services.

Your assessment should also take into account the family's sense of need for and receptivity to services. This would of necessity require contacting the family and enlisting their participation in this assessment process.

A local social services official is required to make a determination of need for and eligibility for Preventive Services when an application for services is made. If during the assessment process outlined above, the family expresses an interest in continuing to receive services or you determine that Mandated Preventive Services pursuant to SSL 409-a(1) would be warranted, you would take an application for services from the family. An appropriate assessment and determination of the need for and eligibility for Preventive Services should then be made and appropriate notification and offers of services to the family completed, where applicable.

Any offer of services must keep in mind that Preventive Services are always voluntary. Families (parents/children) have absolute rights of refusal, whether directly by outright refusal or indirectly by not cooperating with district attempts to provide services. Only where there is a specific court order directing compliance with a program of services may Preventive Services be provided on other than a voluntary basis. As with any application for services, a denial or any change in services requires appropriate notification and granting of fair hearing rights.

When Preventive Services are being provided pursuant to a court order, they must continue as long as the order remains in effect. A family's moving out of the district does not automatically modify or terminate the court order. The district from which the family has moved should go to court to request modification or termination of the order with regard to the local district's responsibility. In any event, the local district's obligation under the order continues until the order expires or is modified by the court.

In addition to the situation where you are the receiving district for a family moving in from another social services district, you may be the district which is providing Preventive Services for a family which is moving or is about to move into another social services district. The case would be closed in your district based on the family's move. Upon closing, notification of the closing and the reason for closing must be sent to the family whose case is being closed, including notification of their rights to fair hearings. You may also want to encourage families who continue to need services to apply in the district to which they have moved.

While you may close the family's case for services in your district, you should also prepare and send to the social services district to which the family is moving at least the following information:

- 1) the family's name and the address to which they are moving;
- 2) relevant copies or a summary of the family's assessment and services plan from the Uniform Case Record maintained on the family;

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- 3) your assessment of the family's progress and of the family's continuing need for services;
 - 4) any other information that may aid the other district in assessing the family's need for services, including sharing of court record information and any previous foster care experience with the family.

This may be in a letter or some other communication, including E-mail where applicable. The Department does not specify any requirements or format for this type of transfer of information, but your guide should be to send to the other district the type and amount of information you would want to receive if you were the receiving district. The authority to share the relevant Preventive Services records information as part of a referral notification is in Section 423.7(b)(2) of Department Regulations.

In summary, districts who are or become aware that a family who has been receiving Preventive Services is moving or has moved to another district should make an information referral to the district to which the family will move or has moved. This referral should include as much information about the family, the services which were being provided, the reason(s) they were being provided, and any information which may assist the new district to assess any continuing need for services on the part of the family. A district which receives a notification/referral that a family receiving Preventive Services in another district has moved into its district is encouraged to contact the family and to offer to review with the family the need for services and to allow the family to apply for services, if desired.

The Department will be incorporating these guidelines in an Update to the Preventive Services Program Manual. Please contact your Division of Services and Community Development Regional Office if you have any questions on this.

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Division of Services and Community Development