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| LOCAL COMMISSIONERS MEMORANDUM |
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Transmittal No: 96 LCM-67

Date: July 31, 1996

Division: Services & Community
Development

TO: Local District Commissioners

SUBJECT: Local Social Services Districts' Responsibilities for
Handicapped Children in Foster Care Who Require Adult
Services After Age 21

ATTACHMENTS: None

The purpose of this memorandum is to remind you that no new placements of foster children who turn 21 on or after July 1, 1996 in transitional care will be approved due to a change in state law. This was explained more fully in 95-LCM-55, entitled "Chapter 600 of the Laws of 1994 - Transitional Care Services", which was distributed to you on May 11, 1995. It is also to remind you of your responsibilities regarding "Notification and Referral for Handicapped Children in Foster Care Who Require Adult Services After Age 21" as provided for in 86-ADM-18, issued on June 5, 1986.

Section 398(14) of the Social Services Law requires a social services district to notify the parent or guardian of a foster child who is developmentally disabled, emotionally disturbed or physically handicapped, who is eighteen years of age, and will continue in foster care after the age of eighteen, that care for such child will end when the child turns twenty-one. Such notice must be in writing and must request the parent or guardian's consent to have the child referred to the appropriate State agency, including the Office of Mental Health (OMH) or the Office of Mental Retardation and Developmental Disabilities (OMRDD), to determine whether the child will likely need services after the age twenty-one and, if so, to recommend possible adult services. Department regulation, 18 NYCRR 441.14 (b) (2) requires that the social services district send such notice to the parent or guardian within 30 days of the first service plan review following the child's eighteenth birthday.

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Parental consent is a condition precedent to the referral of information by a social services district to OMH or OMRDD. As set forth in 18 NYCRR 441.14(b) (3), the social services district must submit a report of the child's condition to OMH, OMRDD, State Education or this Department, upon the written consent of the parent or guardian. The social services district determines which State agency receives the referral in accordance with standards established by the Department (see 18 NYCRR 441.14(b) (3) (i)-(iv)). The content of the report is also prescribed by Department regulation. A process exists to resolve disputes over which State agency is appropriate. Such disputes are sent to the Council on Children and Families for resolution (see 18 NYCRR 441.14(b) (7)). Comparable standards exist for foster children placed out-of-state who will require adult residential care (see 18 NYCRR 441.14(c)).

For foster children with a developmental disability, OMRDD's local Developmental Disabilities Services Office (DDSO) must play an active role to transition young adults to the adult services system. After securing parental consent, you should make a referral to your local DDSO. If the young adult is determined eligible, the DDSO must develop a plan for continued care which shall include an evaluation and shall identify adult programs or services which may be available.

For foster children with an emotional disability, OMH will develop a plan of care for those children determined to likely need adult mental health services upon aging out. After securing parental consent, you should make a referral to your County Office of Mental Health. If the young adult is determined eligible, the local mental health agency will work with the individual, the parents, guardians, or other family members to develop an appropriate plan of care.

If you have any questions, please contact Joseph Della Rocca of this office. The telephone number is (518)473-1496 or user ID AX4520.

Rose M. Pandozy
Deputy Commissioner
Division of Services and Community
Development