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TRANSMITTAL: 95 INF-52

TO: Commissioners of
 Social Services

DIVISION: Services and
 Community
 Development

DATE: December 15, 1995

SUBJECT: Family Type Home For Adults: Restrictions on
 Operating Certificates Due to Child Support
 Obligations

SUGGESTED

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

CONTACT PERSON: Any questions concerning this release should be
 directed to Janet Morrissey (518) 432-2864 or Thomas
 Burton (518) 432-2987

ATTACHMENTS: I. Certification of Child Support Obligations
 II. Certification of Satisfaction of Child Support
 Obligations (Available Online)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		458	Article 7 of		
		485	SSL		
		486	Chapt. 81		
		489	of Laws of 1995		
			Section 3- 503 of GOL		
			244-c DRL		
			458-b FCA		

The purpose of this release is to inform local social services districts of the provisions of Chapter 81 of the Laws of 1995 which impact on the Family Type Home for Adults (FTHA) program. The provisions of this law are designed to enhance the enforcement of child support obligations.

Section 3-503 has been added to the General Obligations Law (GOL). This section requires every applicant to a state or local government agency for a license, permit or certificate to engage in an occupation or business to certify in the application, that as of the date of application (1) the applicant is or is not under an obligation to pay child support and (2) if the applicant is under such obligation, the applicant does or does not meet one of the following conditions specified in Section 3-503(2) of the GOL:

- a. the applicant is not four months or more in arrears in the payment of child support;
- b. the applicant is making payments by (1) income execution; (2) a payment or repayment plan agreed to by a court; or (3) a payment or repayment plan agreed to by the parties to the child support proceeding;
- c. the child support obligation is the subject of a pending court proceeding; or
- d. the applicant is receiving public assistance or supplemental security income.

To address the requirements of this law as they pertain to the FTHA Program, a new form, DSS-4505 (Certification of Child Support Obligations), has been developed. This form is included as Attachment I. Individuals who are applying for a new or renewal certificate to operate a FTHA must complete and submit a Certification of Child Support Obligations with their application. If an applicant declares that he/she is either not obligated to pay child support or although obligated, satisfies at least one of the four conditions specified in paragraph 2 of the Certification of Child Support Obligations, a four year operating certificate may be issued if all other application requirements are satisfied.

If an applicant has child support obligations and does not satisfy at least one of the conditions specified in paragraph 2 of the Certification of Child Support Obligations, pursuant to Section 3-503(3) of the GOL, an operating certificate may be issued or renewed for only a six month period. The operating certificate will expire and must be surrendered at the end of the six month period unless the applicant can certify that he/she now complies with Section 3-503(3) of the GOL which requires the applicant to satisfy at least one of the following conditions:

- a. he/she is no longer in arrears in the payment of child support;
- b. support payments are being made by income execution, by court agreed payment or repayment plan, by a plan agreed to by the parties to the support proceeding or by a repayment plan with the appropriate support collection unit;
- c. the child support obligation is the subject of a pending court proceeding; or
- d. he/she is currently in receipt of public assistance or supplemental security income.

To reflect the standard contained in Section 3-503(3), the Department developed another new form, DSS-4506 (Certification of Satisfaction of Child Support Obligations). This form is included as Attachment II. If a Certification of Satisfaction of Child Support Obligations is completed and submitted by the applicant before the six month period expires, an operating certificate may be issued that will cover the remaining period of the normal four year cycle for operating certificates. If the applicant can not satisfy the requirements of Section 3-503(3) before the six month operating certificate expires, and does not voluntarily surrender the operating certificate and cease operating, the Department will initiate enforcement proceedings against the applicant to close the home. Whenever a six month operating certificate is issued, the Department will provide written notice to the operator regarding the requirements of Section 3-503(3) of the GOL. A copy of this notice will be sent to the appropriate local social services district.

New sections have been added to the Domestic Relations Law (DRL) and to the Family Court Act (FCA) regarding child support obligations which will also impact on the FTHA program. Section 244-c has been added to the DRL and Section 458-b has been added to the FCA to provide for enforcement of child support obligations. These statutes provide that child support obligations created as a result of matrimonial actions under the DRL or as a result of child support proceedings under the FCA can be enforced by a court through the issuance of an order directing a State agency to (1) commence proceedings to suspend the license or registration (including a FTHA operating certificate) of an individual who is four or more months in arrears on his/her child support obligations and (2) inform the court of the actions taken in response to the court order. Once the operating certificate is suspended, the suspension would remain in place until the operator provided proof of payment of the child support obligation. This proof would have to be in the form of: a certified check; a notice of compliance issued by the court; or notice of compliance from a support collection unit where the court order provides for payment to such unit. Since these new sections of law require the courts to contact the responsible State agency regarding the suspensions of operating certificates, the Department will provide the notice to both the local

social services districts and the affected operators when warranted. The Department will also be responsible for notifying the courts of the actions taken in response to the court orders. It is important to note that any negative action instituted against applicants or operators as a result of these three new provisions of law does not negate their due process rights regarding notice and hearings as specified in law and applicable regulations.

The requirement to complete and submit the Certification of Child Support Obligations with all new and renewal applications is effective immediately. This new requirement applies only to applicants. This requirement does not apply to an applicant's spouse. In situations involving co-operators of a FTHA, the failure of one co-operator to comply with these new requirements will not affect the status of the co-operator who is in compliance. Since the law requires both the Certification of Child Support Obligations and the Certification of Satisfaction of Child Support Obligations to be notarized and include the information that is in bold face print, local social services districts are encouraged to utilize the attached forms to assure compliance with these requirements. Districts which elect to develop and utilize their own forms may do so only with the prior approval of the Department. In the near future, the DSS-2865 (Application for Approval) will be revised to indicate that the Certification of Child Support Obligations is a required document for all new and renewal applications.

Rose M. Pandozy
Deputy Commissioner
Services and Community Development

FAMILY TYPE HOME FOR ADULTS
CERTIFICATION OF CHILD SUPPORT OBLIGATIONS PURSUANT TO SECTION 3-503(2)
OF THE GENERAL OBLIGATIONS LAW

(Please read the attached instructions before completing this form).

I, _____, am applying for a certificate from the New York State Department of Social Services to operate or continue to operate a Family Type Home for Adults. I hereby swear and subscribe to the following:

1. As of the date of this application, I am am not (circle the correct answer) under an obligation to pay child support.

Answer #2 only if you are obligated to pay child support.

2. I do do not (circle the correct answer) meet at least one of the following conditions:

- a. I am not four months or more in arrears in the payment of child support.
- b. I am making payments by income execution, by court agreed payment or repayment plan or by a plan agreed to by the parties to the support proceeding.
- c. My child support obligation is the subject of a pending court proceeding.
- d. I am currently in receipt of public assistance or supplemental security income.

The intentional submission of false written statements for the purpose of frustrating or defeating the lawful enforcement of child support obligations is punishable pursuant to Section 175.35 of the Penal Law.

I hereby solemnly swear that the information provided by me in this certification is true and accurate to the best of my knowledge. I acknowledge that this statement is given under oath.

Sworn to before me this ____
day of _____, 199____

(Signature)

Notary Public, State of New York
(affix stamp)

(Print Name)

(Date)

Persons who are four months or more in arrears in child support may be subject to suspension of their business, professional and/or drivers licenses, including their Family Type Home for Adults Operating Certificate.

FAMILY TYPE HOME FOR ADULTS
INSTRUCTIONS FOR COMPLETING THE CERTIFICATION OF
CHILD SUPPORT OBLIGATIONS PURSUANT TO
SECTION 3-503(2) OF THE
GENERAL OBLIGATIONS LAW

Heading: Type or print your name in the blank space.

Paragraph 1: Circle the correct answer, either "am" or "am not". If you are under an obligation to pay child support (i.e., your answer was "am"), you must complete paragraph 2. If you are not under an obligation to pay child support (i.e., your answer was "am not"), do not respond to paragraph 2.

Paragraph 2: Circle the correct answer, either "do" or "do not".

Signature: You must sign in the presence of a notary and the notary must complete the notarization at the bottom of the form. Type or print your name and insert the date of signing in the spaces provided.

General Information:

This certification is necessary pursuant to Section 3-503 of the General Obligations Law. If you answered in paragraph 1 that you are not under any obligation to pay child support, there will be no effect on the issuance of your certificate to operate a Family Type Home for Adults. If you do have an obligation to pay child support but you meet at least one of the conditions set forth in paragraph 2 of the certification form, your child support obligation will not affect the issuance of your operating certificate. However, if you do have a child support obligation and you answered that you do not meet at least one of the conditions set forth in paragraph 2, Section 3-503(3) of the General Obligations Law requires that the operating certificate issued to you be valid for a maximum period of six months from the date of issuance. The operating certificate may only be renewed at the end of that time if you submit a certification that you have come into compliance with at least one of the conditions set forth in Section 3-503(3) of the General Obligations Law. (A form certifying compliance with the requirements of Section 3-503(3) of the General Obligations Law is available from your caseworker.) Upon submission of such a certification, your operating certificate will be renewed without further application provided your facility continues to be in compliance with all applicable provisions of the Social Services Law and Department regulations.

FAMILY TYPE HOME FOR ADULTS
CERTIFICATION OF SATISFACTION OF CHILD SUPPORT OBLIGATIONS
PURSUANT TO SECTION 3-503(3) OF THE GENERAL OBLIGATIONS LAW

(Please read the attached instructions before completing this form)

I, _____, the holder of an operating certificate from the New York State Department of Social Services to operate a Family Type Home for Adults, do hereby swear and subscribe to the following:

As of the date of this certification, I now meet at least one of the following conditions:

- a. I am no longer in arrears in the payment of child support.
- b. I am making payments by income execution, by court agreed payment or repayment plan, by a plan agreed to by the parties to the support proceeding or by a repayment plan with the appropriate support collection unit.
- c. My child support obligation is the subject of a pending court proceeding.
- d. I am currently in receipt of public assistance or supplemental security income.

The intentional submission of false written statements for the purpose of frustrating or defeating the lawful enforcement of child support obligations is punishable pursuant to Section 175.35 of the Penal Law.

I hereby solemnly swear that the information provided by me in this certification is true and accurate to the best of my knowledge. I acknowledge that this statement is given under oath.

Sworn to before me this _____
day of _____, 199__

(Signature)

Notary Public, State of New York
(affix stamp)

(Print Name)

(Date)

Persons who are four months or more in arrears in child support may be subject to suspension of their business, professional, and/or drivers licenses, including their Family Type Home for Adults Operating Certificate.

FAMILY TYPE HOME FOR ADULTS
INSTRUCTIONS FOR COMPLETING THE CERTIFICATION OF SATISFACTION
OF CHILD SUPPORT OBLIGATIONS PURSUANT TO
SECTION 3-503(3) OF THE GENERAL OBLIGATIONS LAW

Heading: Type or print your name in the blank space.

Signature: You must sign in the presence of a notary and the notary must complete the notarization at the bottom of the form. Type or print your name and insert the date of signing in the spaces provided.

General Information:

This certification is necessary pursuant to Section 3-503 of the General Obligations Law where you stated on the certification form submitted by you with your application to operate or continue to operate a Family Type Home for Adults that you had an obligation to pay child support and that you did not meet at least one of the conditions set forth in Section 3-503(2) of the General Obligations Law (paragraph 2 of that certification). Pursuant to Section 3-503(3) of the General Obligations Law, the operating certificate issued to you is for a maximum period of six months from the date of issuance. The operating certificate may only be renewed at the end of that time if you submit this certification stating that you have come into compliance with at least one of the conditions set forth in Section 3-503(3) of the General Obligations Law, as set forth in this certification. Upon receipt of your completed certification, your operating certificate will be renewed without further application provided your facility continues to be in compliance with all applicable provisions of the Social Services Law and Department regulations.

If you are not in compliance with Section 3-503(3) of the General Obligations Law when your six month operating certificate expires, you must surrender your operating certificate and cease to operate a Family Type Home for Adults. Failure to surrender your operating certificate and cease operating a Family Type Home for Adults will result in the initiation of enforcement proceedings against you. Written notice and an opportunity for a hearing will be presented to you if enforcement proceedings are initiated against you.