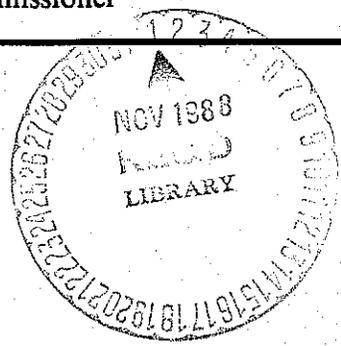


ADMINISTRATIVE DIRECTIVE

NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES
40 North Pearl Street
Albany, New York 12243
Cesar A. Perales, Commissioner



TRANSMITTAL NO: 88 ADM-48

DATE: November 1, 1988

DIVISION: Family and Children Services

TO: Social Services Commissioners
Directors of Voluntary Child Care Agencies

SUBJECT: Expansion of Population Eligible to Become
Approved Relative Foster Parents

SUGGESTED DISTRIBUTION:

Directors of Services
Child and Family Services Staff
Staff Development Coordinators

CONTACT PERSON: Any questions concerning this release should be directed to Fred Cantlo, Director, Metropolitan Regional Office, (212) 488-3485; John O'Connor, Director, Albany Regional Office, (518) 432-2751; Linda Brown, Director, Buffalo Regional office, (716) 847-3145; Frank Petrus, Director, Rochester Regional office, (716) 238-8200; Jack Klump, Director, Syracuse Regional office, (315) 428-3234.

I. Purpose

The purpose of this directive is to inform you that Chapter 460 of the Laws of 1987 amended Section 375 of the Social Services Law to exempt relatives within the third degree to the parents or step-parents of a child from certification or licensing in order to provide foster care to a child under the age of eighteen. Chapter

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Department Regs.	Social Services Law and Other Legal References	Manual References	Miscellaneous Reference
86 ADM-33		430.12(f)			
86 ADM-35		430.13(g)	375		1/22/86 Criminal Conviction Guidelines
86 ADM-43		443.1	424-a		
		443.3(a)			1/22/86 SCR Screening Guidelines
		444.2			
		444.8			

460 of the Laws of 1987 also amended Section 424-a to require such relatives to be screened with the State Central Register of Child Abuse and Maltreatment.

This directive also advises that relatives within the third degree to the parents or step-parents of a child are subject to the approval process contained in Parts 443 and 444 of 18 NYCRR and 86 ADM-33.

In addition, this directive advises that a child placed with an approved relative within the third degree is permitted, when appropriate, to have a permanency planning goal of discharge to independent living, regardless of the child's age and without State approval.

II. Background

On December 11, 1985 comprehensive Department regulations became effective establishing a process for approving relatives as foster parents. These regulations contain requirements similar to those which apply to applicants for certification and licensing of foster parents. Regulations for approval require a background review and evaluation which include the following: employment history, two personal references and a sworn statement signed by the applicant indicating whether he or she has ever been convicted of a crime in New York State or in any other jurisdiction. (See 18 NYCRR 443.3(a) and 86 ADM-43.)

An Administrative Directive, 86 ADM-33, "Requirements for Approval of Relative Foster Boarding Homes and Policy on Use of Relatives as Foster Care Providers or as Alternatives to Placement" describes the approval process. It includes procedures for expedited approval of relatives as foster care providers. Subsequently, the regulations on which this current Directive is based were developed, incorporating the procedures for emergency approval of relative homes as stipulated in negotiations for settlement of the Eugene F. et al v. Gross et al class action lawsuit.

Chapter 677 of the Laws of 1985 amended section 424-a of the Social Services Law to add relative foster parent applicants as persons who are subject to the State Central Register (SCR) screening provisions.

Utilization Review regulations established exemptions from State approval for the assignment of goals of independent living for children of any age residing with relative foster care providers. (See 86 ADM-35.) Technical amendments to Sections 430.12 and 430.13 of Department regulations relating to Utilization Review are included in the regulations on which this Directive is based.

In these previous regulations and directives, approval of relative foster parents was restricted to relatives within the second degree to the parent of the child.

III. Program Implications

With the enactment of Chapter 460 of the Laws of 1987 the class of relatives eligible for approval has been broadened. The intent is to increase the number of homes available for foster care placement

in the least restrictive setting possible. Placement of children with suitable relatives can mean continuity of environment and maintenance of significant relationships which are of critical importance to the child's well-being. By expanding the population of relatives who can be approved, family relationships may be preserved and placement in an unfamiliar environment may be more frequently avoided.

The following persons are now eligible for approval as relative foster parents:

- relatives within the first, second or third degree to the parents of a child; such persons may be related through blood or marriage; and
- relatives within the first, second or third degree to the step-parents of a child; such persons may be related through blood or marriage.

Such relatives include the following persons as they relate to the child:

A. First degree

- grandparents of the child
- siblings of the child

B. Second degree

- great-grandparents of the child
- aunts and uncles of the child, including the spouse of the aunt or uncle

C. Third degree

- great aunts and great uncles of the child, including the spouse of the great aunt or great uncle
- first cousins of the child, including the spouse of the first cousin
- great-great-grandparents of the child

In recognition of expanded and combined family situations, the concept of an approved relative has been broadened to include a person unrelated to the child, but related to the parents or step-parents of a half-sibling. Thus, a person unrelated to the child may be approved as a relative foster parent if that person is related in the second or third degree to the parents or step-parents of one of the half-siblings and such approval will allow the half-siblings to remain together in placement.

IV. Required Action

A. Agency staff must continue to follow procedures for approval of relative foster homes as described in Section 444.8 of Department regulations and in 86 ADM-33.

B. Relatives within the third degree as listed above in Section III may now be considered for approval as foster parents.

C. Agency staff must secure a signed and dated statement from the relative applicant indicating the exact relationship to the child and the child's natural parent(s). This statement must be retained in the case file.

D. All applicants for approval as relative foster parents must be screened with the State Central Register of Child Abuse and Maltreatment according to procedures outlined in 86 ADM-43 and the guidelines issued by the Department on January 22, 1986 entitled "Evaluating Applicants/Employees who are the Subject of Indicated Reports of Child Abuse and Maltreatment."

E. Agency staff must review and evaluate all applications for approval as relative foster parents to determine whether that relative has been convicted of a crime in New York State or any other jurisdiction. A sworn statement signed by the applicant must be obtained according to procedures outlined in 86 ADM-43 and the guidelines issued by the Department on January 22, 1986 entitled "Evaluating Applicants with Criminal Conviction Records."

F. A child placed with an approved relative is permitted, when appropriate, to have a permanency planning goal of discharge to independent living regardless of the child's age. Districts and agencies are advised not to submit these cases to the State for approval. No exception request is required.

V. Systems Implications

None.

VI. Additional Information

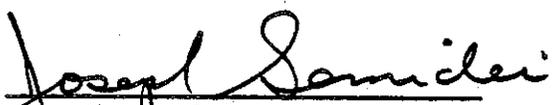
Attached are:

A. Chapter 460 of the Laws of 1987.

B. Regulatory amendments filed on October 11, 1988, effective November 1, 1988.

VII. Effective Date

This directive is effective December 1, 1988, retroactive to July 27, 1987, the effective date of Chapter 460 of the Laws of 1987.



Joseph Semidei
Deputy Commissioner
Division of Family and
Children Services

L. 1987
Ch. 460
Date Passed: July 27, 1987

STATE OF NEW YORK

7472--A

1987-1988 Regular Sessions

IN ASSEMBLY

May 5, 1987

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Hoyt, Vann, Barbaro, Connor, Gottfried, Greene, Hevesi, Koppell, Lasher, Semin-erio) -- read once and referred to the Committee on Children and Families -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT to amend the social services law, in relation to the requirement of a certificate or license to board children and the definition of licensing agency

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Section three hundred seventy-five of the social services
2 law, as amended by chapter seventy-nine of the laws of nineteen hundred
3 sixty-two, is amended to read as follows:
4 § 375. Requirement of certificate or license to board children. Ex-
5 cept for relatives within the second degree or third degree of the
6 parents of a child or children, relatives within the second degree or
7 third degree of the step-parent of a child or children, legally ap-
8 pointed guardians, schools and academies meeting the requirements of the
9 education law as to compulsory education, camps operated for profit for
10 the accommodation of school age children during school vacation periods
11 under permits issued by health officers pursuant to chapter seven of the
12 state sanitary code, and persons with whom a child or children are
13 placed out, no person shall receive, board or keep any child under the
14 age of [sixteen] eighteen years unless certified or licensed to do so as
15 provided in this title.
16 § 2. Subdivision four of section four hundred twenty-four-a of such
17 law, as separately amended by chapters seven hundred nineteen and eight

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [] is old law to be omitted.

LB007372-09-7

1 hundred seventy-five of the laws of nineteen hundred eighty-six, is
2 amended to read as follows:

3 4. For purposes of this chapter, the term "licensing agency" shall
4 mean an authorized agency which has received an application to become an
5 adoptive parent or an authorized agency which has received an applica-
6 tion for a certificate or license to receive, board or keep any child
7 pursuant to the provisions of section three hundred seventy-six or three
8 hundred seventy-seven of this article or an authorized agency which has
9 received an application from a relative within the second degree or
10 third degree of the parent of a child or a relative within the second
11 degree or third degree of the step-parent of a child or children, or the
12 child's legal guardian for approval to receive, board or keep such child
13 or an authorized agency or state or local governmental agency which
14 receives an application to provide day care services in a day care cen-
15 ter, family day care home or group family day care home pursuant to the
16 provisions of section three hundred ninety of this article, or the
17 department of health of the city of New York, when such department
18 receives an application for a certificate of approval to provide family
19 day care pursuant to the provisions of the health code of the city of
20 New York, or a state or local governmental official who receives an ap-
21 plication for a permit to operate a camp which is subject to the provi-
22 sions of article thirteen-A, thirteen-B or thirteen-C of the public
23 health law or the division for youth which has received an application
24 for a certificate to receive, board or keep any child at a foster family
25 home pursuant to the provisions of subdivision seven of section five
26 hundred one, section five hundred two or subdivision three of section
27 five hundred thirty-two-a of the executive law.

28 S 3. This act shall take effect immediately provided, however, that
29 nothing contained in section two of this act shall be deemed to affect
30 the expiration of certain provisions contained in subdivision four of
31 section four hundred twenty-four-a of the social services law, as
32 provided for in chapter seven hundred nineteen of the laws of nineteen
33 hundred eighty-six.

STATE DEPARTMENT OF SOCIAL SERVICES

ALBANY, NEW YORK

Pursuant to the provisions of Sections 20(3)(d), 34(3)(f), 375 and 398-a of the Social Services Law of the Social Services Law, I, Cesar A. Perales, Commissioner of Social Services, do hereby amend Sections 430.12 (f)(1)(i), 430.13(g)(5)(v)(b)(1), (2) and (4), 443.1(d) and (e), 443.3(o) and (t), 444.2(b), and 444.8 and add Sections 431.6, 443.3(v), and 443.7 to the Official Regulations of the State Department of Social Services, being Chapter II of Title 18 NYCRR, effective 21 days after publication of the Notice of Adoption in the State Register.

Dated: October 11, 1988

Signed: Cesar A. Perales
Commissioner

This is to certify that this is the original of an order of the State Department of Social Services, made on October 11, 1988 amending Sections 430.12(f)(1)(i), 430.13(g)(5)(v)(b)(1), (2) and (4), 443.1(d) and (e), 443.3(o) and (t), 444.2(b), and 444.8 and adding Sections 431.6, 443.3(v), and 443.7 to the Official Regulations of the State Department of Social Services, being

Title 18 NYCRR, the express terms
of which were published in the New
York State Register on April 13,
1988

Dated: October 11, 1988

Signed: Cesar A. Pardo

Commissioner

Subparagraph (i) of paragraph (1) of subdivision (f) of section 430.12 is amended to read as follows:

(i) Standard. The child [shall be] is 14 years of age or older, or [be] is placed in a foster home with [a relative of the second degree or closer,] an approved relative as defined by subdivision (e) of section 443.1 of this Title for this goal to be established, and it [shall have been] is determined to be in the child's best interests that he or she remain in foster care and not return to his or her parents or be adopted until the child reaches the age of 18. No other child [shall] may have a goal of discharge to independent living unless the court has refused, after a hearing, to free the child for adoption, or unless that goal is approved by the State Commissioner of Social Services, or by his or her representative.

Subclauses (1), (2) and (4) of clause (b) of subparagraph (v) of paragraph (5) of subdivision (g) of section 430.13 are amended to read as follows:

(1) for a case to be no longer [be] in violation of section 430.12(d)(2)(iii) of this Part, it must be documented in the uniform case record and, where required, in the child care review service, that the child has returned home, that an exception has been granted by the department [or local district commissioner with the advice of a review panel,] or that the permanency planning goal has changed;

(2) for a case to be no longer [be] in violation of section 430.12(e)(2) of this Part, it must be documented in the uniform case record and, where required, in the child care review service, that the child has been placed into an adoptive placement,

that an exception has been granted by the department [or local district commissioner with the advice of a review panel,] or that the permanency planning goal has changed;

(4) for a case to be no longer [be] in violation of section 430.12(f)(1) of this Part, it must be documented in the uniform case record that the court has refused, after a hearing, to free the child for adoption or that the goal of independent living has been approved by the department, [or local district commissioner with the advice of a review panel,] or that the permanency goal has changed, or that the child is placed in a foster home with [a] an approved relative [of the second degree or closer] as defined by subdivision (e) of section 443.1 of this Title, or is 14 years old or older;

A new section 431.6 is added to read as follows:

431.6 Court ordered placement of children.

Where a court order exists pursuant to Social Services Law section 358-a or 384 or Article 3, 7 or 10 of the Family Court Act which gives the local commissioner of social services care and custody or custody and guardianship of the child and foster care placement is ordered, the placement of the child must always be in a licensed, certified or approved foster home or other facility authorized by the department to provide foster care. If the child is placed outside of New York State, placement must be in a licensed, certified or approved foster home or other facility authorized by the requisite state agency in the other state to provide foster care.

Subdivision (d) of section 443.1 is amended to read as follows:

(d) Approved home. An approved home is a home in which temporary or long-term care is provided to a child whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provisions of section 384 or 384-a of the Social Services Law or who has been placed with a social services official pursuant to Article 3, 7 or 10 of the Family Court Act and who is cared for 24 hours a day in a family home with a foster parent who is a relative within the second or third degree to the parent(s) or step-parent(s) of [a] the child and who is duly approved by an authorized agency as required in section 444.8 of this Title.

Subdivision (e) of section 443.1 is amended to read as follows:

(e) Relative within the second or third degree. A relative within the second or third degree to the parents or step-parents of a child refers to those relatives who are related to the parent(s) or step-parents through blood or marriage either in the first, [or] second or third degree in the kinship line. A relative within the second or third degree of a parent or step-parent includes the following:

- (1) grandparents of the child;
- (2) great-grandparents of the child;
- (3) aunts and uncles of the child, including the spouses of the aunts or uncles; [and]
- (4) siblings of the child [.]
- (5) great-aunts and great-uncles of the child,
including the spouses of the great-aunts or great-uncles;
- (6) first cousins of the child, including the spouses
of the first cousins;

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(7) great-great grandparents of the child; and
(8) an unrelated person where placement with such person allows half-siblings to remain together in an approved foster home, and the parents or step-parents of one of the half-siblings is related to such person in the second or third degree.

The opening language of subdivision (o) of section 443.3 is amended to read as follows:

(o) Authorized agencies [shall] must maintain a record for each certified, licensed or approved foster family home. The record [shall] must include:

Subdivision (t) of section 443.3 is amended to read as follows:

(t) Authorized agencies [shall] must comply with the requirements of [section] sections 378 and 398.6(n) of the Social Services Law regarding the number of children in care and with the requirements of section 373 of the Social Services Law with regard to religious faith.

A new subdivision (v) is added to section 443.3 to read as follows:

443.3(v) Reimbursement. With the exception of foster family free home care as defined in subdivision (j) of section 441.2 of this Title, certified and approved foster care parents must be reimbursed for each such child to whom they provide foster care according to the standards established in Part 427 of this Title.

A new section 443.7 is added to read as follows:

443.7 Agency procedures for approving relative foster homes on an emergency basis.

(a) The home of a relative of a foster child may be

approved as a foster home on an emergency basis under the following circumstances:

(1) a child is removed from his or her own home pursuant to Section 1021, 1022 or 1024 of the Family Court Act or a child is remanded to foster care pursuant to Article 10 of the Family Court Act; and

(2) an eligible relative, identified in subdivision (e) of section 443.1 of this Title, is acknowledged by the child's parent(s) or step-parent(s), the court, a representative of the local district or other interested party, as potentially appropriate to provide foster care to the child or such relative volunteers to provide foster care to the child.

(b) Before placing a foster child with an eligible relative on an emergency basis the authorized agency must:

(1) secure a signed and dated statement from the relative indicating the exact relationship to the child and the child's parent(s). Such statement must be retained in the case file;

(2) perform a home study of the relative's home and family on an expedited basis which assesses the relative's home to ensure that there is no apparent risk to the health and safety of the child;

(3) perform a home study of the relative's home and family on an expedited basis which assesses the relative's family, focusing on the following factors:

(i) the family's relationship with the child and the child's parent(s) or step-parent(s);

(ii) the care provided to other children in the home by the relative;

(iii) the family's knowledge of the circumstances and conditions that led to the need for the child's foster care placement;

(iv) the family's role in the past in helping and/or protecting the child from and/or preventing occurrences of abuse or maltreatment of the child; and

(v) the family's present ability to protect the child placed in its home from abuse or maltreatment and the family's ability to understand the need to protect the child from abuse or maltreatment;

(3) explain to the relative the agency's role and authority to supervise the placement;

(4) secure a written agreement from the relative(s) which states that he/she is willing to provide foster care to the child and that he/she will comply with the provisions of paragraphs (1) through (14) of subdivision (c) of section 444.8 of this Title;

(5) obtain information necessary to contact character references pursuant to paragraph (1) of subdivision (f) of section 443.3 of this Title;

(6) obtain a completed SCR Clearance Form pursuant to paragraph (5) of subdivision (a) of section 443.3 of this Title and submit such Form to the State Department of Social Services pursuant to section 424-a of the Social Services Law and paragraph (6) of subdivision (a) of section 443.3 of this Title; and

(7) review agency records to determine whether or not the relative(s) has a prior history of abuse or maltreatment.

(c) If the home is found suitable after the requirements of subdivision (b) of this section have been completed, it will be approved on an emergency basis as a relative foster home for 60 days from the date of placement of the child in the home.

(d) Relative foster homes approved on an expedited emergency basis for 60 days, may continue to provide foster care beyond the 60th day of placement if they are fully approved on or before the end of the 60th day. For a relative foster home to receive continued approval, all requirements for approval as a foster home as set forth in sections 443.3 and 444.8 of this Title must be met within 60 days from the date of placement.

(e) Failure to meet all requirements for approval of the relative foster home. If the relative foster parent(s) fails to meet all requirements for approval pursuant to sections 443.3 and 444.8 of this Title within 60 days from the date of placement, the authorized agency must:

(1) provide notice to the relative foster parent(s) within the first 60 days of placement if such requirement(s) for approval as a foster home have not been or cannot be met. Such notice must be provided no later than 20 days prior to the expiration date of the emergency approval and must identify the particular problem(s) that constitute a barrier to approval as a foster home.

(2) revoke a relative foster parent(s) approval pursuant to section 444.10 of this Title if all requirements for approval are not met within the first 60 days from the date of placement;

(3) upon revocation of an approval, remove the child from the home of the relative, place such child in a suitable certified foster home or an approved relative foster home, and inform the relative of the right to request a hearing in accordance with the provisions of section 400 of the Social Services Law; and

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(4) remove the child from the home of the relative pursuant to section 400 of the Social Services Law and section 443.5 of this Title when health and safety risks to the child warrant such removal and place the child in a suitable certified foster home or an approved relative foster home. At the time the child is removed from the home, the relative must be informed of the right to request a fair hearing in accordance with the provisions of section 400 of the Social Services Law.

Subdivision (b) of section 444.2 is amended to read as follows:

(b) A license or certificate [shall] is not [be] required when children are placed or received at board with relatives within the second or third degree [measured collaterally], as set forth in subdivision (e) of section 443.1, with legally appointed guardians, at schools and academies meeting [with] the requirements of the Education Law as to compulsory education, and at camps operated for profit for the accommodation of school age children during school vacation periods under permits issued by health officers pursuant to part 7 of the State Sanitary Code. When [children are] a child is placed at board with [relatives] a relative(s) within the second or third degree, the relative's home must be approved by an authorized agency as required in [section] sections 443.3 and 444.8 of this Part, and a letter indicating such approval must be issued to the approved foster [parent] parent(s).

The catchline of section 444.8 is amended to read as follows:

444.8 Requirements for approval of relative foster homes [operated by relatives within the second degree of the parent(s) of a foster child].

(Deleted material [bracketed]; new material underlined).

