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| LOCAL COMMISSIONERS MEMORANDUM |
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Transmittal No: 92 LCM-101

Date: July 1, 1992

Division: Family and Children
Services

TO: Local District Commissioners

SUBJECT: CPS Information: Access to Service Coordinators and Service
Providers

ATTACHMENTS:

Recently, questions have arisen as to the sharing of CPS information with service providers or coordinators, and the extent to which this is permitted by Section 422.4(A)(o) of the Social Services Law. This memorandum describes the Department's policy on sharing information with service providers and coordinators, based on our interpretation of the statutory language and legislative intent.

The Department's Child Protective Services Manual addresses this on page X-B-12 (revised 6/91). The Manual discusses CPS sharing information with service providers and coordinators, and includes a definition of a service provider or coordinator of service: "an individual, agency, or institution identified by the local district as meeting the educational, health, mental health or social service needs of the child and his family and is specifically named in the child and family plan of service approved by the appropriate local district".

Section 422.4(A)(o) allows for access to CPS information to "a provider or coordinator of services to which a child protective service or social service district has referred a child or child's family or to whom the child or the child's family have referred themselves at the request of the child protective service or social services district, where said child is reported to the register when the records, reports or other information are necessary to enable the provider or coordinator to establish and implement a plan of service for the child or child's family..."

Some have sought guidance as to how literally to ascribe a meaning to "has referred" and "have referred themselves at the request of the child protective service or social services district". For example, is it possible to "refer" a family or a member of a family to a provider or coordinator if such family or individual is participating in the provider's program prior to CPS' involvement? Similarly, can a person "refer themselves" to a program that such person is already engaged in prior to CPS' intervention?

Our interpretation of the statutory language and intent is that it is possible for CPS to "refer" or a client to "refer themselves" to a provider or coordinator who had been working with the family prior to CPS involvement. In essence, the identification of abuse or maltreatment issues may well create a need for CPS to communicate with a service provider or coordinator in order for such providers or coordinator to provide services to the family in keeping with the overall plan to reduce the risk of abuse or maltreatment. Not to give access to information to the service provider/coordinator, when such withholding will result in either less protection for the child's immediate well being, or the service provider/coordinator not addressing key risk elements as part of their work with the family member(s), would be counterproductive and cannot be construed to represent legislative intent.

For example, if the above interpretation were not to be applied, and a more literal reading of "refer" was taken, CPS virtually could never provide information to schools or regular medical providers (because they would have been involved as a provider prior to CPS involvement). In many instances, the failure of CPS to provide certain information to the school or medical provider could prove detrimental to the child's immediate safety or longer term freedom from abuse or maltreatment.

In relation to providing information to service coordinators or providers of service, CPS, in essence, controls when it is appropriate to share information. This follows from the statutory requirement that such coordinator or services provider be specifically named in the "child and family plan of service" in order for CPS to share information. Therefore, if CPS is working in concert with a coordinator or service provider to make a child safe or reduce risk of future abuse or maltreatment, the case record

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should specify the coordinator or service provider's name. It is the Department's position that it is sufficient to list the coordinator or service provider's name, including the extent of their involvement in the overall case plan, within the progress notes in order to meet this requirement. Again, it would be unreasonably restrictive if this requirement was taken to mean that the coordinator or service provider need be included in one of the UCR goals or outcomes (Risk Assessment UCR).

As it concerns the extent of information to be provided, the Program Manual recommends providing information of a sufficient amount to allow the service providing or coordinating agency to fulfill its part in carrying out CPS' plan to ensure the child's safety and reduce future risk of harm. In some instances, it may be advisable for the local district to provide all information it has, if, for example, a coordinating agency is responsible for working with the various agencies which are carrying out the service plan goals. The Department's position is that information should be provided based on a "need to know" standard. This conforms to the statutory language which authorizes information sharing with coordinators or providers of service when "the records, reports or other information are necessary to enable the provider or coordinator to establish and implement a plan of service for the child or the child's family."

Any questions concerning this memorandum should be directed to your Family and Children's Service Regional Office.

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Family and Children Services