ADMINISTRATIVE DIRECTIVE	TRANSMITTAL: 93 ADM-19
	DIVISION: Services and Community Development
TO: Commissioners of Social Services Directors of Voluntary Foster Care Agencies	DATE: July 28, 1993

SUBJECT: Dissemination of Family Service Plans and Certain Assessment Information (Chapter 725 of the Laws of 1992)

SUGGESTED DISTRIBUTION:

Directors of Services
Child Welfare Staff
Staff Development Coordinators

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ATTACHMENTS:

A: Assessment Documentation "Quick Find" (available on-line)
B: Chapter 725 of the Laws of 1992 (not available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
92 ADM-24 91 ADM-36 87 INF-24 86 INF-43 85 ADM-23		Part 428 Sect. 431.10	SSL 409-e Chapter 707 of the Laws of 1988 PHL 2782		

DSS-296EL (REV. 9/89)

I. Purpose

The purpose of this directive is to provide policy implications and guidance to social service districts and voluntary child caring agencies which serve foster children and their families regarding Chapter 725 of the Laws of 1992, pending issuance of amended regulations. This directive also advises districts and agencies of the Department's interim implementation procedures for Chapter 725. Chapter 725 of the Laws of 1992, which became effective on July 31, 1992, amends Sections 409-e and 409-f of the Social Services Law (SSL). Primarily these amendments:

- require that in foster care cases specified information be documented in the case assessment; and that assessment and service plan information be given to the parent or guardian of a child entering foster care, to the counsel for the parent or guardian and to the child's law guardian.

Chapter 725 of the Laws of 1992 requires this Department to issue implementing regulations. Those regulations are being developed. Until the regulations are promulgated, we must operate under existing regulations which permit social services districts and voluntary child care agencies to share only certain information and to share that information only with the child's family. Therefore, this directive provides guidance as to what information may and may not be shared with the child's parent or guardian under the authority of existing regulations. Moreover, in the absence of regulatory authority to share any such information with the counsel for the parent or guardian or the child's law guardian, no such information may be shared at this time without a court order.

We are in the process of amending Department regulations to allow for full compliance with Chapter 725 of the Laws of 1992. As always, you will have an opportunity to comment upon these regulations prior to final promulgation.

II. Background

Sections 409-e and 409-f of the SSL were originally part of the Child Welfare Reform Act of 1979. The standards set in these sections were officially implemented on April 1, 1981 when the standards for Uniform Case Recording became effective. The requirements for establishing and maintaining the Uniform Case Record are set forth in Department Regulations 18 NYCRR Part 428. Greater detail can be found in the Uniform Case Record Desk Aid originally issued in 1981 (as the Uniform Case Recording Standards Casework Manual) which was completely revised in April 1985. Periodically, the Department has issued other directives and letters pertaining to working with parents or guardians of children in foster care, including practice issues such as permanency planning (86 INF-43), formulating service goals (87 INF-24), and service plan review standards (88 ADM-27). These documents all share a common theme of promoting the importance of client participation and involvement in the development and effective implemention of service plans, in joint decision making, and in information sharing.

The Department is in the midst of implementing the New York State Risk Assessment and Service Planning Model for use with all child protective cases, including foster care cases that are open with the State Central Register of Child Abuse and Maltreatment. A recent Department study has shown that almost three quarters of the foster care population came into the system through child protective cases.* In order to implement this new model the Department created a series of new "risk-based" Uniform Case Record (UCR) forms which replace current uniform case record forms for all child protective service cases. These forms incorporate the case documentation requirements of the non-risk UCR while adding important risk assessment and service planning components. This directive sets out differing requirements for those districts and agencies that have completed the training program and are now using the Risk Assessment and Services Planning Model.

III. Program Implications

A. The Assessment:

Section 409-e (1)(d) of the SSL, as amended by Chapter 725 of the Laws of 1992, adds additional items for inclusion in the assessment performed when children enter foster care. These documentation requirements are currently in effect. Please note that most of these items do not represent new requirements as current regulations already contain similar requirements supported by the Uniform Case Record forms. The items are listed below, followed by suggestions for documenting them within the Uniform Case Record. Please be aware that upon the filing of regulatory amendments this assessment information will need to be shared with the parent or guardian of a child entering foster care, the counsel for the parent or guardian and the foster child's law guardian.

- Reasonable efforts made to prevent or eliminate the need for placement or the reason such efforts were not made:

  If placement occurs prior to completion of the Initial Assessment and Service Plan, this information should be documented on the Initial Assessment and Service Plan: Section 3: Actions To Date.

  If placement occurs subsequent to completion of the Initial Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment: Section 6: Placement.

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* "Families in the Child Welfare System: Foster Care and Preventive Services In the Nineties". New York State Department of Social Services. April 1992.

If your district or agency is using the New York State Risk Assessment and Service Planning Model (Risk Assessment District):

If placement occurs as a result of a CPS report, and placement occurs prior to completion of the Preliminary Assessment Of Safety (PAS), this information should be documented on the PAS: Section 3: Safety Response; or if placement occurs as a result of a CPS report, and placement occurs subsequent to completion of the PAS but prior to completion of on the Initial Risk Assessment and Service Plan: this information should be documented on the Initial Risk Assessment and Service Plan: Section 1: Case Update Part A.

If placement occurs in an indicated CPS case subsequent to the completion of the Initial Risk Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment-Rev.: Section 5: Placement.

° The kind and level of placement and the reasons therefor:

If placement occurs prior to completion of the Initial Assessment and Service Plan, this information should be documented on the Initial Assessment and Service Plan: Section 6: Appropriateness Of Placement Part a and Part b.

If placement occurs subsequent to completion of the Initial Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment: Section 8: Placement Or Movement Part a and Part b.

If your district or agency is using the New York State Risk Assessment and Service Planning Model (Risk Assessment District):

If placement occurs as a result of a CPS report, and placement occurs prior to completion of the Initial Risk Assessment and Service Plan, this information should be documented on the Initial Risk Assessment and Service Plan: Section 3: Appropriateness Of Placement Part A and Part B.

If placement occurs in an indicated CPS case subsequent to the completion of the Initial Risk Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment-Rev.: Section 7: Placement Or Movement Part A and Part B.

° Whether the child will be placed with the child's siblings and half-siblings and, if not, the reasons therefor:

If placement occurs prior to completion of the Initial Assessment and Service Plan, this information should be documented on the Initial Assessment and Service Plan: Section 6: Appropriateness Of Placement Part c (below the grid). Please note the current regulations (18 NYCRR 431.10) and 92 ADM-24 already require this item, but the Initial Assessment and Service plan form does not specify this particular item. It will be incorporated into a future revision of this form.

If placement occurs subsequent to completion of the Initial Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment: Section 8: Placement Or Movement Part c (below the grid). Please note the Plan Amendment (12/84) does not specify this item. When you begin using the Plan Amendment-Rev. you will find this item has been incorporated.

If your district or agency is using the New York State Risk Assessment and Service Planning Model (Risk Assessment District):

If placement occurs as the result of a CPS report, and placement occurs prior to completion of the Initial Risk Assessment and Service Plan, this information should be documented on the Initial Risk Assessment and Service Plan: Section 3: Appropriateness Of Placement Part C (below the grid).

If placement occurs in an indicated CPS case subsequent to the completion of the Initial Risk Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment-Rev.: Section 7: Placement Or Movement Part C (below the grid).

° The arrangements made for contact between the siblings and half-siblings (if they are not placed together):

If placement occurs prior to completion of the Initial Assessment and Service Plan, this information should be documented on the Initial Assessment and Service Plan: Section 7: Family/Child Visiting Plan. Please note the current regulations (18 NYCRR 431.10) and 92 ADM-24 already require this item, but the Initial Assessment and Service plan form does not specify this particular item. It will be incorporated into a future revision of this form.

If placement occurs subsequent to completion of the Initial Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment: Section 8: Placement Or Movement Part d. Please note the current regulations (18 NYCRR 431.10)and 92 ADM-24 already require this item, but the Plan Amendment form does not specify this particular item.

If your district or agency is using the New York State Risk Assessment and Service Planning Model (Risk Assessment District):

If placement occurs as the result of a CPS report, and placement occurs prior to completion of the Initial Risk Assessment and Service Plan, this information should be documented on the Initial Risk Assessment and Service Plan: Section 4: Family/Child Visiting Plan. Please note current regulations (18 NYCRR 431.10) and 92 ADM-24 already require this item, but the Initial Risk Assessment and Service Plan form does not specify this particular item.

If placement occurs subsequent to completion of the Initial Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment-Rev.: Section 7: Placement Or Movement Part D. Please note the current regulations (18 NYCRR 431.10) and 92 ADM-24 already require this item, but the Plan Amendment-Rev. form does not specify this particular item.

° Identification of all available placement alternatives and the specific reasons why they were rejected:

If placement in a setting other than a foster home occurs prior to completion of the Initial Assessment and Service Plan, this information should be documented on the Initial Assessment and Service Plan: Section 6: Appropriateness Of Placement Part b.

If placement in a setting other than a foster home occurs subsequent to completion of the Initial Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment: Section 8: Placement or Movement Part b.

If your district or agency is using the New York State Risk Assessment and Service Planning Model (Risk Assessment District):

If placement in a setting other than a foster home occurs as a result of a CPS report, and placement occurs prior to completion of the Initial Risk Assessment and Service Plan, this information should be documented on the Initial Risk Assessment and Service Plan: Section 3: Appropriateness Of Placement Part B.

If placement in a setting other than a foster home occurs in an indicated CPS case subsequent to the completion of the Initial Risk Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment-Rev.: Section 7: Placement or Movement Part B.

° An estimate of the anticipated duration of placement:

If placement occurs prior to completion of the Initial Assessment and Service Plan, this information should be documented on the Initial Assessment and Service Plan: Section 5: Program Choice And Permanency Planning Goal. It is expected that the Permanency Planning Goal Anticipated Completion Date (PPG ACD) will coincide with the anticipated duration of placement in foster care cases.

If placement occurs subsequent to completion of the Initial Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment: Section 9: Plan. Be sure to include Anticipated Completion Dates with Permanency Planning Goal changes.

If your district or agency is using the New York State Risk Assessment and Service Planning Model (Risk Assessment District):

If placement occurs as a result of a CPS report, and placement occurs prior to completion of the Initial Risk Assessment and Service Plan, this information should be documented on the Initial Risk Assessment and Service Plan: Section 8: Program Choice And Permanency Planning Goal. It is expected that the Permanency Planning Goal Anticipated Completion Date (PPG ACD) will coincide with the anticipated duration of placement in foster care cases.

If placement occurs subsequent to completion of the Initial Risk Assessment and Service Plan, therefore requiring completion of a Plan Amendment, this information should be documented on the Plan Amendment-Rev.: Section 8: Plan Modifications. Be sure to include Anticipated Completion Dates with Permanency Planning Goal changes.

° Plan for termination of services under appropriate circumstances, with specific explanation of the reasons for such termination plan:

Since this is more closely related to the service plan than the assessment, it will be covered in the service plan section below.

Please refer to ATTACHMENT A: ASSESSMENT DOCUMENTATION "QUICK FIND" for a summary of the assessment requirements of Chapter 725 of the Laws of 1992 and the suggested areas for documenting this information in the UCR.

B. The Service Plan:

Chapter 725 of the Laws of 1992 also amends Section 409-e (2) of the SSL relating to the service plan. These amendments contain no new documentation requirements. The amended language reinforces current regulations and good practice requirements that the service plan identifies "...necessary and appropriate services and assistance to the child and members of the child's family. The services so identified shall, before being included in the family service plan, be assessed to determine the projected effectiveness of such plan...". The statute lists several factors that should be taken into consideration when developing a service plan. Caseworkers should ensure that each is taken into consideration when developing goals or outcomes and related actions, tasks and activities.

- The families concurrence with the plan:

  Respecting and involving families are fundamental practice standards and are of great importance in achieving family reunification. Case planners should strive to obtain input from all family members in order to develop a meaningful service plan and should particularly consider any areas of disagreement between the agency service planner or provider and any family member that is part of the service plan. Efforts should be made to resolve those differences and achieve some level of consensus before incorporating these items into the plan. When disagreement persists, especially where failure to reach agreement may significantly jeopardize the prospects for a child returning home, recommendations to the court for imposition of a court ordered plan should be considered.

- The ability and motivation of the family to access services, including geographic accessibility:

  Even when family members agree with the elements of the service plan, these two other important factors (access and motivation) should be considered when developing the specifics of service provision and the roles of family members in performing the tasks and activities. Access to services should be provided within the confines of the family members' own neighborhoods or close to their residence(s) whenever possible. Any reasonable means which provide services more conveniently to family members should be sought. Access barriers should be thoroughly explored, such as transportation needs, necessary child care arrangements and suitability of appointment times.

Level of motivation, as well as cooperation, should be observed. The service plan should be geared incrementally to those levels even though there is agreement as to the general service plan. For example, case planners should consider the family member's ability to engage in multiple tasks, or complicated tasks or consider readiness for even what may be considered a fairly simple task. Where the level of motivation may be low for any reason, strong consideration should be given to simpler tasks, breaking tasks down into smaller steps, and adding new features to the plan as positive results occur. The family member's sense of accomplishment may increase levels of motivation and cooperation as time goes by, producing more positive results in the long run.

° The relatedness of the services to the family's needs and its socio-economic and cultural circumstances:

Consideration of cultural and ethnic factors must be weighed in order to design a meaningful, relevant and useful service plan. Cultural and ethnic sensitivity, as well as awareness of individual differences within a group, should be a constant concern of service planners. It is important to choose services that family members can relate to and those that can build upon the cultural and ethnic strengths and resources of family members. These strengths and resources may include skills, behaviors and attitudes. Service agencies and providers should be carefully selected for their cultural and ethnic knowledge and compatibility whenever possible in order to help family members feel comfortable and understood. For example, knowledge of a particular group's child rearing practices at each developmental stage may be vital to successful outcomes or achievement of goals. Accurate assessment of such factors as literacy, oral comprehension skills and English language proficiency also may be critical for developing a service plan and maximizing its success.

Evaluation of a family's basic needs must be placed within the context of the socio-economic circumstances of the family. The realities of poverty, must be taken into consideration and these realities may be out of the control of the family members. Families with children in foster care, often do not have the resources to help offset the impact of situational stress producing events or personal problems. These stressors and/or problems are often closely associated with living in poverty. Case planners can help by providing or coordinating a range of services which may need to emphasize concrete assistance such as remediation of

safety and health hazards, emergency cash and goods, housing, etc. Unrealistic goals or outcomes should be avoided; those that realistically can result in the families basic needs being met should be encouraged. It is important to distinguish basic needs from cultural norms when planning services.

° Other factors which may impact upon the effectiveness of such plan:

Other factors for effective services planning should be considered, particularly clarity and specificity of each of the service plan elements (i.e. goals, outcomes, tasks, activities, etc.). Family members are more inclined to move in a positive direction toward goal or outcome achievement if they understand the positive implications of the service plan elements. Families must know what is expected to occur and why it is important. Service plans that are vague, unachievable, or not verifiable can demoralize and confuse family members.

In addition, striving for service plan outcomes that logically build from family member's assets and/or competencies may help to bring about positive change in families. This will require case planning staff to be as attuned to identifying family members' strengths and even limited capabilities as they are to family problems and risk factors.

As previously referenced, Section 409-e (1)(d) of the SSL requires that the assessment that follows a foster care placement must document the plan for termination of services under appropriate circumstances. Moreover, specific explanation of the reasons for the termination plan must be included. In both the Initial Assessment and Service Plan, and the Initial Risk Assessment and Service Plan, if the termination plan is known at that time, it should be incorporated into the "Actions Planned" area. Likewise, if placement occurs subsequent to the completion of the Initial Assessment and Service Plan or Initial Risk Assessment and Service Plan, the plan for termination of services should be incorporated into Section 9: Plan (12/84 Plan Amendment) or Section 8: Plan Modifications (Plan Amendment-Rev.) whichever is appropriate. More than likely, however, that degree of information will not be known at such an early stage of case development. Case planners often may be uncertain as to how and when family members will achieve a sufficient level of progress in order to terminate services, and whether that level of progress, if achieved, can remain stable or can be maintained without such services.

C. Disseminating Information:

Chapter 725 of the Laws of 1992 requires that the first service plan following a child's placement in foster care be shared with the child's parent or guardian within ten days of plan preparation. This applies to the initial service plan, if the child's placement is prior to completion of the Initial UCR or, when placement occurs at a later point in the life of a case, it applies to the plan portion of the plan amendment recording the placement status change and those aspects of the previous plan that are still relevant. The statute requires such plan be developed in consultation with the child's parent or guardian, unless such person is unavailable or unwilling to participate, or such participation would be harmful to the child, and with the foster child if the child is ten years of age or older, and encourages participation of the foster child's siblings, where appropriate. The statute requires in person consultation, unless impracticable or harmful to the child.

These requirements are largely consistent with the existing requirement to share service plan information as a component of the service plan review process.* Service plan reviews are required to be conducted in conjunction with preparation of the comprehensive and reassessment service plans. Although there is no service plan review requirement immediately following a child's foster care placement, and the 10 day time frame for sharing information is shorter and more explicit than the requirements for sharing later plans, the statute is sufficiently consistent with existing Department regulations for this mandate to be carried out immediately. It is the Department's position that visiting plans should also be shared in conjunction with all shared service plans, effective immediately.

However, the documented assessment information described earlier in this section (III.A), absent a court order, should not be shared with the child's parent or guardian until regulatory authority exists. Sharing any information (assessment or service plan) with the counsel for the parent or guardian or the child's law guardian, absent a court order, also should not be done until regulatory authority is established.

Lastly, Chapter 725 of the Laws of 1992 requires information sharing when a fair hearing is conducted concerning a child in foster care. Depending on the specific nature of the hearing, relevant portions of the foster child's Uniform Case Record must be made available to the child's parent or guardian, counsel for the parent or guardian and the child's law guardian, if he or she is a participant in the fair hearing.

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* Refer to 18 NYCRR 430.12 (c) (2) and 88 ADM-27 for complete information concerning sharing subsequent service plans and visiting plans. Also note, Chapter 538 of the Laws of 1992, effective September 1, 1992, requires that the court must give a copy of "...the child services plan" to the respondent, in conjunction with an extension of placement hearing determination pursuant to Section 1055 (b)(iv)(B) of the Family Court Act.

D. Additional Implications Regarding Sharing HIV-Related Information With Parent or Guardian, Counsel for Parent or Guardian, or Law Guardian:

In any circumstance when any Uniform Case Record document or other document may be shared regarding a child in foster care, and such document contains confidential HIV-related information about the foster child, the requirements of Section 2782 of the Public Health Law (PHL) and Section 373-a of the SSL apply. Section 2782 of the PHL specifies the persons or entities to whom disclosure and redisclosure of confidential HIV-related information may be made. Section 373-a of the SSL specifies the persons to whom confidential HIV-related information regarding foster children must be disclosed. Applicable provisions of these statutes which supersede the requirements of Chapter 725 of the Laws of 1992 are:

- Confidential HIV-related information must be disclosed to a foster child's parent or guardian, except in circumstances where the foster child has capacity to consent to such disclosure; in such cases, the foster child must provide written consent for such disclosure. ("Capacity to consent" is defined in 18 NYCRR Section 360-1.8(a)(8).)

- Confidential HIV-related information may not be disclosed to counsel for the parent or guardian unless the foster child provides written consent to such disclosure if such child has capacity to consent to the disclosure of confidential HIV-related information, or unless a person who can consent to medical care gives consent if the foster child lacks capacity to consent.

- When requested by a law guardian who represents a foster child, an authorized agency must disclose confidential HIV-related information concerning the foster child to the law guardian, for purposes of representing the foster child. However, the law guardian must not redisclose such information if the foster child has capacity to consent unless the child provides written consent to such disclosure. If the child lacks the capacity to consent, the law guardian may redisclose confidential HIV-related information for the sole purpose of representing the child. (See also 18NYCRR 431.7 (d).)

For further guidance about disclosure of HIV-related information, refer to 91 ADM-36.

IV. Required Action

Social services district and voluntary agency staff who serve foster children and their families must implement the following interim procedures in order to comply with those aspects of Chapter 725 of the Laws of 1992 which do not need additional regulatory authority:

1. Documentation of the statutorily required assessment elements is required as specified in the Program Implications section (III.A.).

2. Case planners must document the plan for termination of services, if that is known.

3. Prepare service plans in consultation with the child's parent or guardian, foster child and siblings of the foster child except where the statute lists an exception as described in the Program Implications section (III.C.). Case planners must consider the statutorily prescribed factors when developing service plans for children in foster care and their families. These considerations also apply to all reviews and revisions of the family service plan. The factors to consider are listed and described in the Program Implications section (III.B.).

4. Within ten days of establishing a service plan for a child entering foster care, the service plan and visiting plan must be provided in written form to the child's parent or guardian. The written form may be a copy of the appropriate sections of the Uniform Case Record or any other document or combination of documents, including Uniform Case Recording forms, that contain the service plan and visiting plan. Subsequent service plans and visiting plans are to be provided in accordance with the provisions of 18 NYCRR 430.12 (c)(2).

Until regulatory authority is established, absent a court order, social services districts and voluntary agencies must refrain from providing in written form the statutorily prescribed assessment elements to the parents or guardians of a child entering foster care. They should also refrain, absent a court order, from providing any written information to counsel for the parent or guardian. Nothing prohibits the child's parent or guardian from sharing the information they receive with their attorney. Except as indicated in section III.D., relating to a child whose record contains confidential HIV-related information, social services districts and voluntary agencies, absent a court order, must refrain from providing any written information to the child's law guardian.

5. When a fair hearing has been requested in accordance with Section 22 of the SSL, a copy of the portions of the Uniform Case Record relevant to the hearing must be made available to the child's parent or guardian, counsel for the parent or guardian, and, if he or she is participating in the hearing, the child's law guardian.

V. System Implications

None.

VI. Effective Date

The requirements of this release are effective on September 1, 1993. Although Chapter 725 of the Laws of 1992 took effect on July 31, 1992, social services districts and voluntary agencies are not expected to comply with the requirements of this release until the effective date of the ADM.

Frank Puig
Deputy Commissioner
Division of Services and
Community Development