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| LOCAL COMMISSIONERS MEMORANDUM |
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DSS-4037EL (Rev. 9/89)

Transmittal No: 95 LCM-138

Date: December 28, 1995

Division: MSQI

TO: Local District Commissioners

SUBJECT: Emergency Assistance to Families Claiming for JD/PINS

ATTACHMENTS: Department letter to DHHS dated - Available on line
Authorization to State DSS Form - Available on line

A recent EAF Federal Action Transmittal (ACF-AT-95-9) referencing Section 406(e) of the Social Security Act, 45 CFR 233.120 and 234.120, SSA-AT-82-28 and SSA-AT-78-44 identified that effective January 1, 1996 Federal funding is not available under the Emergency Assistance to Families program (EAF) for benefits and services provided to children in the juvenile justice system. Reimbursement continues to be available for expenditures thru December 31, 1995.

The Federal policy change means that no EAF reimbursement is available for costs associated with providing benefits or services to children in the juvenile justice system who have been removed as a result of the child's alleged, charged, or adjudicated delinquent behavior, or who have otherwise been determined to be in need of State supervision by reason of the child's behavior.

The Department has formally objected to this policy change in a letter to Mary Jo Bane Assistant Secretary for the Department of Health and Human Services, Agency for Children and Families. A copy of that letter is attached.

Effective with January 1996 expenditures, local districts should not initially claim EAF reimbursement for adjudicated JD/PINS placements on the Schedule H Non Title XX Services to Recipients. The maintenance and tuition, cancellation and refund amounts for non-IVE eligible JD/PINS should be claimed directly to the Division for Youth on the DFY-10. Expenditures,

cancellations, and refunds made on behalf of Title IVE eligible youths who are in either DSS or DFY custody, who are adjudicated as JD/PINS and have been placed in voluntary agencies or DSS operated group care should be entered in line 1 of the Schedule K. JD/PINS maintenance costs are entered in line 1, column 2 and JD/PINS tuition costs are entered as FNP in line 1, column 3. The costs for IVE JD/PINS in Foster Homes should be reported in line 3c. Local districts should also adjust claiming to Federally Non Participating for youth who are not adjudicated JD/PINS but whose placement is due to the youth's behavior as defined above. Local districts should consider the policy change in their 1996 budget planning and notify appropriate County officials of this change.

In order to protect our appeal rights as we pursue this change in Federal policy, local districts should continue to authorize eligible cases as EAF and file informational claims for maintenance and/or tuition costs on the DSS-3922 Special Project Claim form labeled JD/PINS - EAF eligible. As indicated in the letter to Mary Jo Bane, the Department will continue to file claims under EAF for eligible cases, so the Special Project Claim form will be the vehicle to permit this. The claim forms should be submitted to John Murray in the Office of Quality Assurance and Audit NYS Department of Social Services, 75 State Street 8th floor, Albany, NY 12207.

Local districts should reference 94 LCM-52 and 95 LCM-54 for determining EAF eligibility to insure adequate documentation exists to support claims. In addition, local districts have the option of having the Department complete EAF eligibility for DFY cases as has previously been offered. Local districts choosing this option should complete the attached form and submit it to John Murray at the above address by January 22, 1996.

The Department is also reviewing other juvenile justice related expenditures, e.g., non secure detention for retroactive periods that may be eligible for EAF funding. Should districts wish to pursue possible Federal funding of these types of costs, documentation of EAF eligibility should be completed and the DSS-3922 Special Project Claim form submitted along with a cover letter of explanation indicating the nature of the claims. Refer to 95 LCM-117 for details concerning the submission of these claims.

If you have any questions regarding this LCM, please contact:

Fiscal - Region I-IV - Roland Levie at 1-800-383-8859, extension 4-7549, or dial direct at (518) 474-7549. User ID# FMS001.

Region V - Marvin Gold at (212) 383-1733. User ID# OFM270.

Program - Richard Rocco 474-8164 User ID# 90B145.

Stephanie O'Connell
Acting Director
Office of Financial Management

November 29, 1995

Re: Emergency Assistance Program
Policy Announcement AT-95-9

Dear Assistant Secretary Bane:

On September 12, 1995 the Director of the Office of Family Assistance (OFA) issued ACF-AT-95-9. This policy announcement advises that federal financial participation is not available under the Emergency Assistance (EA) program for costs related to providing benefits or services to children in the juvenile justice system who have been removed from their home as a result of the child's "alleged, charged, or adjudicated delinquent behavior, or who have otherwise been determined to be in need of State supervision by reason of the child's behavior."

The sudden announcement of this policy, without an opportunity for State participation, reverses a long standing federal policy of providing federal funds for services on behalf of these children. New York disagrees with the new policy. Further, we believe that it improperly denies federal funds based on mere allegations of a child's improper behavior. Further, the State is aggrieved by being unable to participate in the preparation of OFA's policy.

I am requesting that you direct OFA to immediately withdraw AT-95-9.

Finally, this State in order to fully protect its rights to federal funds intends to continue submitting claims under the EA program for children placed in the juvenile justice system as a result of an emergency. As with other actions in which the State disagrees with a federal agency position, the claims that are submitted by the Department will clearly identify the expenditure in question.

Very truly yours,

/s/BJW 11/29/95

Brian J. Wing

Ms. Mary Jo Bane
Assistant Secretary
Department of Health & Human Services
Administration for Children and Families
370 L'Enfant Promenade, SW
Suite 600
Washington, DC 20447

cc: Lavinia Limon

Lavinia Limon
Director
Office of Family Assistance
Administration for Children & Families
370 L'Enfant Promenade, SW
Room 533-D
Washington, DC 20447

DESIGNATION

THIS IS A DESIGNATION, of the New York State Department of Social Services (hereinafter referred to as the Department) to act for and on behalf of the _____ County Social Services District (hereinafter referred to as the Social Services District);

WHEREAS, the Department and the Commissioner of the Department, in accordance with Sections 17, 20 and 34 of the Social Services Law (SSL) have the authority to administer all forms of social services benefits for which the State of New York is responsible; to establish practices and policies governing the administration of social services in the State of New York; and exercise such other powers and to perform such other duties as may be required by law;

WHEREAS, the Social Services District and the Commissioner of the Social Services District, in accordance with Sections 62 and 65 of the SSL have the responsibility for the assistance and care of any person who resides or is found in the territory of the Social Services District and who is in need of public assistance and care which such person is unable to provide; and

WHEREAS, the purpose of this designation is to facilitate the more efficient administration of the Emergency Assistance to Needy Families with Children (EAF) program for the mutual benefit of the Department, Social Services District and persons who may be eligible for such program;

WHEREAS, the Department of Health and Human Services has issued Regional Transmittal (AT 95-9) through the Agency for Children and Families (ACF) that, when implemented, would preclude the claiming for EAF funding for services provided to children because of intervention by the Family Court pursuant to Articles 3 and 7 or by their Agents acting under these Articles;

WHEREAS, the Department intends to challenge the implementation of AT 95-9 and the consequences thereof;

NOW, THEREFORE, THE _____ COUNTY SOCIAL SERVICES DISTRICT MAKES THIS DESIGNATION AS FOLLOWS:

1. The Social Services District hereby designates the Commissioner of the Department and the Commissioner's designees as entities and individuals who will have the authority to determine categorical eligibility for the EAF program for children and their families receiving services under Article 3 or 7 of the Family Court Act or services provided to avert adjudication under these Articles (e.g. PINS Diversion) , or placed in care under the authority of the Division for Youth in accordance with Article 3 or 7 of the Family Court Act (FCA). Such designation shall also apply to new applications for such services and for placement with the Division for Youth in accordance with Article 3 or 7 of the FCA. Such categorical eligibility determination must be made in accordance with applicable federal and State statutory and regulatory standards.

2. The Social Services District hereby designates the Commissioner of the Department and the Commissioner's designees to authorize EAF for eligible recipients.

3. The Commissioner of the Department and the Commissioner's designee hereby accept the designation by the Social Services District pursuant to paragraphs 1 and 2 of this DESIGNATION.

4. This DESIGNATION is not intended, directly or indirectly, to provide for any exemption or waiver from compliance with all applicable statutory and regulatory standards regarding the administration of the EAF program or the rights of applicants and recipients. The DESIGNATION shall not be deemed to diminish or expand existing fair hearing rights of applicants or recipients of EAF. The Department shall not be liable for any federal or State disallowance arising from an erroneous decision by the Department on behalf of the Social Services District concerning EAF eligibility of an applicant or recipient.

5. This DESIGNATION shall be effective on January 1, 1996, and shall remain effective until December 31, 1996 and thereafter unless the Social Services District, upon at least 90 days notice to the Department, revokes this designation on or after January 1, 1996. The Department may revoke its acceptance of this DESIGNATION upon 90 days notice to the Social Services District.

6. Notwithstanding the provisions of paragraph 5 above, this designation shall end automatically upon the effective date of any federal legislation that eliminates the EAF program or makes moot the provisions of this designation.

Commissioner
_____County Department of
Social Services

Commissioner/Designee of New York State
Department of Social Services