



Office of Children and Family Services

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Informational Letter

Transmittal:	21-OCFS-INF-09
To:	Local District Commissioners
Issuing Division/Office:	Division of Child Welfare and Community Services
Date:	December 23, 2021
Subject:	Responsibilities for Support, Safety Assessments, and Service Provision in 1017 Direct Custody Cases
Suggested Distribution:	Directors of Social Services Planning Coordinators Staff Development Coordinators
Contact Person(s):	See section V.
Attachments:	None.

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR 403.2 18 NYCRR Part 423 18 NYCRR 423.3 18 NYCRR 423.4(c) 18 NYCRR 423.7 18 NYCRR 428.1(a) 18 NYCRR 428.2(f) 18 NYCRR 428.3(b) 18 NYCRR 428.6(a) 18 NYCRR 429.4 18 NYCRR 430.9	FCA §1017, §1017(3), §1015-a SSL §409	Family Assessment and Services Plan (FASP) Guide Preventive Services Practice Guidance Manual	

I. Purpose

The purpose of this Informational Letter (INF) is to inform local departments of social services (LDSSs) of requirements and best-case practices when working with caregivers providing care to a child as ordered under Family Court Act (FCA) section 1017 (called “1017 direct custody cases” for the purposes of this INF), including the provision of preventive services and assessment of safety. This INF also reminds LDSSs of the correct coding in CONNECTIONS for 1017 direct custody cases (see section IV. Systems Implications).

II. Background

In New York State, a child removed from their home may be placed into the direct custody of a relative or suitable person under the jurisdiction of the family court. This direct custody order occurs pursuant to section 1017 of the FCA.

The LDSS is responsible for safety assessments and supports, as applicable,¹ for all children in 1017 direct custody cases. The safety and well-being of the child is documented in the Family Assessment and Services Plan (FASP), both at initial placement and on an ongoing basis.

Often, 1017 direct custody cases qualify as preventive services cases in accordance with state law and regulation. Preventive services are supportive and rehabilitative services that are provided to children and their families for purposes including “averting an impairment or disruption of a family which will or could result in the placement of a child in foster care.”² Children in 1017 direct custody cases may be at risk of foster care and therefore eligible for preventive services under this provision of the law and New York State Office of Children and Family Services (OCFS) preventive services regulations (18 NYCRR Part 423 and 430.9). Specific supervision and casework contact requirements apply for preventive services cases.³

A child or family may be eligible for either mandated or non-mandated preventive services, depending on the level of risk for a child’s placement into foster care. A child or family is eligible for mandated preventive services when the risk of placement is immediate or imminent. OCFS regulation 18 NYCRR 430.9 prescribes the circumstances that must be met for a case to be classified as mandated preventive.

A court order may set forth additional requirements with respect to the child including but not limited to supervision of the placement.⁴

III. Program Implications

Supervision and Safety Assessments

LDSSs are responsible for (1) ongoing assessments of safety and support (as described below) of all children in 1017 direct custody cases and (2) documenting this information in the FASP. The LDSS must maintain ongoing contact with the child in the home of the caregiver, as necessary, to complete the required documentation both at initial placement and on an ongoing basis. As described in Chapter 9 of the [Family Assessment and Services Plan \(FASP\) Guide](#), the LDSS must assess factors during each contact including but not limited to the following:

- Whether the child’s needs are being met
 - The child’s needs include but are not limited to regular medical, dental, and mental health care; education; religion and spirituality in accordance with the child’s and family’s preferences; and connections with friends, hobbies, interests, and recreational opportunities. Ongoing assessment of child well-being is essential to ensure the child’s normal growth and development, and to identify and respond to any issues, concerns, or needs that may arise while the child is in the 1017 direct custody arrangement.
- The factors that support safety in the home
 - As part of this assessment, the LDSS must identify the strengths and resources within a caregiver’s home that support safety. LDSSs assess safety in the home by knowing the strengths and resources of the caregiver(s), ensuring the appropriateness of the “fit” between the child and their specific living arrangement, having direct contact with the caregiver, and observing and/or talking with the child in the caregiver’s home and/or in a neutral setting.
- Any stressors, vulnerabilities, or serious concerns that may exist
 - The LDSS must assess any issues that may compromise the safety of the child in the home. This includes whether the child is in potential danger from others in the home, whether the caregiver has sufficient means to meet the child’s needs, and whether the caregiver has concerns about their ability to care for the child.

¹ In accordance with 18 NYCRR 428.2(f) and 18 NYCRR 429.4.

² SSL §409.

³ 18 NYCRR 423.4(c).

⁴ FCA §1017(3).

- What steps may be necessary to support the child's safety and well-being in the caregiver's home.
 - If safety concerns arise within the caregiver's home, workers must take timely and effective action to lessen these vulnerabilities and to protect the child or others. Suspected abuse or maltreatment in the home of the caregiver must be reported to the Statewide Central Register of Child Abuse and Maltreatment (SCR).

The LDSS must also take steps to support the caregiver's needs in maintaining placement stability. This may include (1) assisting the caregiver in obtaining financial resources, (2) assisting with transportation and tangible resources, or (3) advocating with schools, medical providers/insurers, and other community resources to obtain needed services for the child. As discussed below, the LDSS must also provide information to the caregiver regarding prevention services.

In conducting the required assessments, workers should speak with the caregiver and with others who provide services directly to the child (i.e., therapists, teachers, aides). The worker should also speak directly with the child and with their parents, as well as observe the child in the caregiver's home or their school to obtain a clear picture of the child's adjustment.

Preventive Services in 1017 Direct Custody Cases

Support of children and families in 1017 direct custody cases often includes the provision of preventive services. Preventive services may be provided to the family voluntarily or by an order of the Family Court. In all 1017 direct custody cases, the LDSS must provide information regarding preventive services to the caregiver(s) from whom the child was removed and to the caregiver(s) with direct custody who express an interest in the availability of services.⁵

If the family is interested in preventive services, and/or if the child would benefit from services, the LDSS must determine whether the child is at risk of foster care in which case non-mandated preventive services may be provided.⁶ In making this determination, the LDSS must include an assessment of the stability of the caregiving arrangement in terms of the needs of the caregiver to whom custody was directed by the court.

Mandated preventive cases must meet additional specific eligibility criteria set forth in 18 NYCRR 430.9. The following services may only be provided in a mandated preventive case:

- Intensive, Home-Based Family Preservative Services
- Preventive Housing Services
- Respite Care and Services for Families

The [Preventive Services Practice Guidance Manual](#) sets forth comprehensive information regarding eligibility for, and provision of, both non-mandated and mandated preventive services.

Casework Contacts in Preventive Cases

At least 12 casework contacts with a child and/or family receiving preventive services are required within each six-month period of services. At least six of the 12 casework contacts must be made by the case planner or by a caseworker, as assigned by the case planner.

- Four of these casework contacts must be individual, face-to-face meetings with the child and/or the family.
- Two of these contacts must take place in the family's home.⁷

⁵ 18 NYCRR 403.2.

⁶ 18 NYCRR 423.3.

⁷ 18 NYCRR 423.4(c)(1)(ii)(d).

It is expected that the family members will be seen individually or together as frequently as necessary to assess and monitor the children’s safety and meet the goals of the Service Plan.

Provision of Preventive Services to the Caregiver With 1017 Direct Custody

If the caregiver may benefit from preventive services to maintain the caregiving arrangement, the LDSS must do the following:

- Consult with the caregiver about whether the caregiver would like to receive preventive services. If the caregiver chooses to apply for preventive services, the LDSS must provide information regarding confidentiality as required by 18 NYCRR 423.7. The caregiver must be informed that they will be added to the family’s preventive case and who will have access to those records. The caregiver may ultimately decide if they want to be included in the preventive case or if they would rather be referred for services or supports.
- If the caregiver agrees to be added to the preventive case, add the caregiver to the Persons List, and complete the service needs and outcomes/activities sections in CONNECTIONS.

IV. Systems Implications

The Program Choice of Non-LDSS-Custody Relative/Resource must be selected for all 1017 direct custody cases in the Family Services Stage (FSS) under Tracked Child Detail. The program choice of Non-LDSS-Custody Relative/Resource Placement must be used in conjunction with either Preventive and/or Protective Program Choice. The effective date for the Non-LDSS-Custody Relative/Resource Placement Program Choice must be the date the court awarded custody to 1017 custodian. A unique Permanency Planning Goal will be generated by CONNECTIONS for this Program Choice.

Coding in Activities to reflect 1017 Custody must be entered as follows:

1017/1055 PLACEMENT with Other (Non-Foster Care)							
1017/1055 Placement with Other (Non-Foster Care)							
EVENT	CODE	DATE	A	B	C	D	NOTES
Petition Filed	L100	__/__/____ (Date Petition Filed)	04	(County Code) F			
Hearing (Adjudication Made)	L300	__/__/____ (Date of Hearing)	04	32=Neglect or 31=Abuse			Use 2 entries (Mod B and Mod C) if an Adjudication of Abuse and Neglect is made.
Hearing (Initial Disposition)	L300	__/__/____ (Date of Hearing)	04	88 or 89		__/__/____ (To)	"To" date cannot be more than 60 days plus 6 months before the initial permanency hearing is due.
Hearing (Initial Disposition)	L300	__/__/____ (Date of Hearing)	04	55		__/__/____ (To)	"To" date cannot be more than 60 days plus 6 months before the initial permanency hearing is due.
1089 Permanency Hearing	L300	__/__/____ (Date of Hearing)	21	88 or 89		__/__/____ (To)	If there is a direct custody placement, the placement is subject to 1089 permanency hearing requirements.

- Code 04 = Article 10 Abuse/Neglect
 88 = Direct custody transferred to/continued with relative
 89 = Direct custody transferred to/continued with non-relative
 55 = Court ordered supervision
 21 - 1089 permanency hearing (1089 hearing pursuant to Section 10A of the Family Court Act)

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