

TITLE 18 SOCIAL SERVICES

(7) If the social services official or an authorized agency acting pursuant to a purchase of service agreement is notified by the commissioner of another State agency to which a report was submitted that such agency is not responsible for determining and recommending adult services for a child, the social services official or the authorized agency which is so notified shall forward the report to another commissioner of a State agency authorized to receive such reports whom the social services official or the agency considers responsible for such determination and recommendation; provided, however, that where such official or agency determines that there exists a dispute as to which State agency has the responsibility for determining and recommending adult services for a child, the authorized agency, if it prepared and submitted the initial report, shall submit the report to the appropriate social services official and the social services official may forward such report and the replies of such State agencies to the Council on Children and Families for the resolution of such dispute.

(8) If the social services official or the authorized agency acting pursuant to a purchase of service agreement which originated the report is notified by another social services official to whom a report has been sent pursuant to paragraph (4) of this subdivision that such other official is not responsible for determining or recommending adult services for the child, the social services official or the authorized agency which originated the report shall submit the report to another social services official or the State agency who or which is responsible for determining and recommending adult services for the child; provided, however, that if there continues to be a dispute as to which social services official is responsible for determining and recommending adult services for the child, the social services official or the authorized agency shall forward the report and the replies of the other social services official(s) to the department for resolution of the dispute or for direction as to which State agency should be sent the report in accordance with the provisions of paragraph (3) or (4) of this subdivision.

(9) Each social services official shall prepare and submit an annual report to the department on October 1, 1985 and thereafter on or before October 1st of each year. Such report shall contain the following without referring to personally identifying information:

- (i) the number of cases submitted to each commissioner pursuant to paragraph (3) of this subdivision, including the type and severity of the handicapping condition of such cases;
- (ii) the number of cases submitted to other social services officials pursuant to paragraph (4) of this subdivision, including the type and severity of the handicapping condition of such cases;
- (iii) the number of reports retained by the official pursuant to paragraph (4) of this subdivision, including the type and severity of the handicapping condition of such cases;
- (iv) the number of replies received which deny responsibility for determining and recommending adult services, and from whom received;
- (v) the number of cases referred to the department for resolution of disputes between social services officials;
- (vi) the number of cases referred to the Council on Children and Families for the resolution of disputes between State agencies; and
- (vii) other information requested by the department as necessary for the department and the Council on Children and Families to monitor the need for adult services.

(d) copies of the most recent medical history, general physical examination and any psychiatric or psychological evaluations which address such areas as:

- (1) mental/developmental status;
- (2) diagnosis;
- (3) treatment summary, if applicable, including any specialists' reports;
- (4) medication summary, if applicable;
- (5) assessment of intellectual/cognitive functioning (IQ);
- (6) assessment of ADL (activities of daily living) skills;
- (7) assessment/report of behavioral problems;
- (8) assessment of self-help skills; and
- (9) educational/vocational summary; and

(e) other records or reports necessary to assist the Commissioner of Mental Retardation and Developmental Disabilities in determining the need for services.

(iii) For referral to the Commissioner of Education, the following items shall be included in the report:

- (a) a copy of the written consent of the parent(s) or guardian to the submission of a report for the determination and recommendation of needed services;
- (b) a request to the office of vocational rehabilitation to conduct an evaluation for eligibility determining;
- (c) copies of any records or reports in the child's or family's case record relative to the need for services, including any completed educational/vocational summary and the most recent documents showing the child's medical status, medical history, and the nature and diagnosis of the child's handicap and the prognosis for its change or recovery; and

(d) other records or reports necessary to assist the Commissioner of Education in determining the need for services.

(iv) For referral to another social services district, the following items shall be included in the report:

- (a) a copy of the written consent of the parent(s) or guardian to the submission of a report requesting the determination and recommendation of needed services;
- (b) a copy of the most recent reassessment and service plan review showing the plan for the child's discharge to or need for adult services;
- (c) a copy of any medical, psychiatric or psychologic report(s) which establish the need for adult services; and
- (d) other records or reports which may assist the local social services official in making the determination and recommendation for needed services.

(6) A copy of any report sent to the Commissioner of Mental Health, Commissioner of Mental Retardation and Developmental Disabilities, Commissioner of Education or their designee(s) or to another social services official who is acting as the designee of the Commissioner of the Department of Social Services shall be submitted to the department at the same time as such report is submitted to such commissioner or social services official. An authorized agency which submits such a report shall also submit a copy of the report to the local social services official with whom the agency has entered into a purchase of services agreement to care for the child.

(b) *Additional requirements applicable to handicapped children in foster care who attain the age of 18.* (i) In order to provide for continuity of services to persons in a need, there is established a program of assistance to the parent(s) or guardian of a child who is developmentally disabled as such term is defined in section 1.03 of the Mental Hygiene Law, emotionally disturbed or physically handicapped, who is receiving care in a group home, agency boarding home, or any child care facility operated by an authorized agency with a capacity of 13 or more, and who attains the age of 18 and who will continue in care after the age of 18.

(2) For each such child, the social services official or an authorized agency acting pursuant to a purchase of service agreement with such official for the care of the child shall notify the parent(s) or guardian of the child that foster care payments and services will terminate when the child reaches the age of 21, that assistance in determining services needed after the age of 21 is available from the department and other appropriate State agencies and that, upon the written consent of the parent(s) or guardian, a report containing the child's name, handicapping condition and other information will be forwarded to an appropriate State agency for the purpose of determining and recommending services for the child after the age of 21. Such notice shall be in writing in such form as the department may require and shall be sent to the parent(s) within 60 days of the first service plan review following the child's 18th birthday.

(3) Upon the written consent of the parent(s) or guardian of the child, the social services official or an authorized agency acting pursuant to a purchase of service agreement shall submit a report of the child's condition and possible need for services after age 21 to the Commissioner of Mental Health, Commissioner of Mental Retardation and Developmental Disabilities, Commissioner of Education, or the Commissioner of Social Services or their designee(s) for the purposes of obtaining a determination and recommendation of needed services in accordance with section 7.37 or 13.37 of the Mental Hygiene Law or subdivision 10 of section 4403 of the Education Law. The social services official or an authorized agency acting pursuant to a purchase of service agreement shall determine which commissioner or designee shall receive the report by considering the child's primary handicapping condition, in accordance with the following criteria:

- (i) For a referral to the Commissioner of Mental Health:
 - (a) the child shall exhibit the presence of an identifiable mental disorder other than mental retardation, developmental disorders, alcoholism, drug dependence or drug abuse; and
 - (b) the child shall have an IQ above 70.
- (ii) For a referral to the Commissioner of Mental Retardation and Developmental Disabilities:
 - (a) the child shall be diagnosed as having a developmental disability in accordance with the provisions of section 1.03 of the Mental Hygiene Law; and
 - (b) the child shall have an IQ below 80.

(iii) For any child who meets the criteria of subparagraph (i) or (ii) of this paragraph but who has an IQ between 60 and 70, the report shall be referred to the dispute resolution committee of the Department of Mental Hygiene for a determination as to which commissioner shall receive the report.

(iv) For a referral to the Commissioner of Education:

- (a) the child shall have a disability other than legal blindness which constitutes or is in a substantial handicap to obtaining and/or maintaining a gainful

(b) there is a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.

(v) For a referral to the Commissioner of Social Services:

- (a) there is a need for adult services as defined in the comprehensive services plan of the department; and
- (b) the child shall exhibit none of the criteria in subparagraphs (i) through (iv) of this paragraph.

(4) If the social services official or an authorized agency acting pursuant to a purchase of service agreement determines that the child shall be referred in accordance with the criteria provided in subparagraph (3)(v) of this subdivision, and that these services will be provided by such official, the social services official shall retain the report or the authorized agency shall submit the report to the social services official who shall retain it and perform the services described in subdivision (e) of this section. If, however, the needed services are or will be the responsibility of another social services district, the social services official or authorized agency making the report shall forward such report to such other social services district. The social services official of such other district shall then perform the services required in subdivision (e) of this section.

(5) The content of the report requesting the determination and recommendation of needed services shall be in accordance with the following requirements:

(i) for referral to the Commissioner of Mental Health, the following items shall be included in the report:

- (a) a copy of the written consent of the parent(s) or guardian to the submission of a report for the determination and recommendation of needed services;
- (b) a copy of the assessment portion of the uniform case record documentation which establishes the child's condition and/or need for services;
- (c) a summary of the child's family/social history;
- (d) copies of the most recent medical history, general physical examination and any psychiatric or psychological evaluations, which address such areas as:

- (1) mental status;
- (2) diagnosis;
- (3) history of treatment;
- (4) medication summary;
- (5) assessments of intellectual functioning (IQ) and sensory motor function;
- (6) assessment of social-affective functioning;
- (7) self-help skills; and
- (8) educational/vocational evaluation/summary; and

(e) other records or reports necessary to assist the Commissioner of Mental Health in determining the child's need for services.

(ii) For referral to the Commissioner of Mental Retardation and Developmental Disabilities, the following items shall be included in the report:

- (a) a copy of the written consent of the parent(s) or guardian to the submission of a report for the determination and recommendation of needed services;
- (b) a copy of the assessment portion of the uniform case record establishing the child's condition and/or need for services;
- (c) a summary of the child's family/social history;

(10) A single compilation of the annual reports received pursuant to paragraph (9) of this subdivision shall be forwarded to the Council on Children and Families by the department.

(c) *Additional requirements and services applicable to handicapped child placed outside New York State.* (1) Purpose. In order to provide adequate continuity of services to persons in need, there is established a program of assistance to the parent(s) or guardian of a child with a handicapping condition who has been placed in a foster care agency, program, facility or institution outside New York State, and who attains the age of 18. For such a child, the social services official shall:

- (i) determine whether such child will need services after the age of 21;
- (ii) if such need exists, assess the nature of the services required;
- (iii) notify the parent(s) or guardian of such child that foster care payments and services will terminate when the child attains the age of 21, that the child will have an apparent need for adult services and that assistance in locating needed services in this State is available from the department and other appropriate State agencies; and
- (iv) upon the written consent of the parent or guardian, submit a report on the child's projected need for services after the child attains the age of 21 to the department for planning purposes.

These activities will be completed and reported as part of the first service plan review after the child's 18th birthday, in accordance with the provisions of this subdivision.

(2) Determination of need for services. In determining the child's projected need for services after the child attains the age of 21 the social services official shall consider whether the child can be returned to the home of his parent(s) for care, and shall evaluate the child's existing physical and mental condition and his behavioral and treatment needs as an adult. This determination shall include, but not be limited to:

- (i) a description of the child's behavioral skills;
- (ii) a description of the child's major strengths and weaknesses, including educational/vocational potential; and
- (iii) identification of the special needs the child will require when the child attains the age of 21. Other factors relevant to a determination for any individual child may also be considered in making the necessary determination of the needs of the child for adult services.

(3) Assessment of the nature of services to be required. Based on the determination made pursuant to paragraph (2) of this subdivision, the social services official shall assess the nature of the services required. This assessment shall include, but not necessarily be limited to:

- (i) an evaluation of the strengths, weaknesses and specific needs identified in the determination process; and
- (ii) identification of specific services that appear to be relevant to developing strengths, overcoming or correcting weaknesses, and/or meeting the specific needs of the child.

This assessment shall consider such factors as physical health needs, mental health needs, training needs, including vocational training, rehabilitative needs, recreation needs and any special needs the child will require as an adult. Consideration shall also be given to the requirements of the social services and mental health services systems.

(4) Notification of parent or guardian of the need for services and availability of assistance in obtaining required adult services in this State. The social services official shall, within 30 days of the completion of the first service plan review following the child's 18th birthday, notify, in writing the parent(s) or guardian of each child who has a handicapping condition and who is placed for foster care in an agency program, facility or institution outside New York State of the following:

- (i) that foster care payments and services for such child shall terminate upon the child's 21st birthday;
- (ii) whether or not it is anticipated that the child will need services or placement after the age of 21;
- (iii) the results of the determination and assessment which the social services official made pursuant to paragraphs (2) and (3) of this subdivision;

(iv) that planning and referral services are available from the department, from the New York State Council on Children and Families and from other State agencies to assist the parents or guardians in locating needed adult services or placement for their child;

(v) the need for the parent(s) or guardian to request such assistance and to consent to the release of the child's records, diagnosis and reports to assist the department and the council in aiding the family and in locating necessary services or placement; and

(vi) that such a request is voluntary and that the disclosure of any records, reports or evaluations shall be strictly confidential and limited solely to the purpose of locating and/or obtaining a relevant placement or services for the child at the time the child attains the age of 21.

The social services official shall include with the information required to be submitted to a child's parent or guardian pursuant to the provisions of this paragraph the appropriate request, consent and release form for forwarding relevant records, reports and evaluations to the department and/or the council.

(5) Local social services official's report to the department. Upon receipt of the written consent from the child's parent(s) or guardian, the local social services official shall compile and forward to the department within 30 days, the following:

- (i) a copy of the parent's signed request for assistance and consent to the release of the social services official's report to the department and to the Council on Children and Families;

(ii) the social services official's report, including the determination of the child's need for services after the age of 21 and the social services official's assessment of the services needed, as specified in paragraphs (2) and (3) of this subdivision; and

(iii) copies of relevant case records, including the first service plan review which was completed following the child's 18th birthday and any other records, reports, evaluations or other material as may be required in accordance with the referral procedures established by the department and the New York State Council on Children and Families.

(6) Department referral to the New York State Council on Children and Families. Upon receipt of the report submitted by a local social services official on behalf of the parent(s) or guardian requesting the assistance of the department and council to locate needed services, the department shall within 30 days of its receipt, forward the request

and report, including the parent's consent, to the council in accord with the referral procedures established by the department. In consultation with the council. In addition, the department shall report annually to the council the number of parent(s)/guardians who were notified that their child will require adult services after the child attains the age of 21 and who have not requested assistance or who have not agreed to consent to the release of records or data.

(d) *Powers and duties of the commissioner and social services official upon receipt of a report requesting determination and recommendation of adult services.* (1) The powers and duties conferred upon the commissioner by section 398-c of the Social Services Law relating to the determination of the need for and recommendation of adult services in response to reports submitted pursuant to clause (a) of subparagraph (b) of paragraph (b) of subdivision 1 of section 4402 of the Education Law or subdivision 15 of section 398 of the Social Services Law are designated as powers of the local social services official.

(2) Upon receipt of a request for a determination and recommendation for adult services from another social services official, from a committee on the handicapped, through a report he himself retained for determination, or from a report submitted by an authorized agency acting pursuant to a purchase of service agreement, the local social services official acting as the designee of the commissioner shall determine whether the child who is being referred in such report will likely need adult services, as defined in the department's comprehensive services plan, and, if such need will likely exist, develop a recommendation of all appropriate programs authorized or operated by the department or the local district which may be available when the child attains the age of 21. If necessary and appropriate, the social services official may conduct or cause to be conducted an evaluation of the child to determine if adult services will be necessary. Such determination and recommendation shall be submitted to the parent(s) or guardian of the child in writing as soon as practicable after the receipt of the report but no later than six months before the child attains the age of 21.

(3) If the social services official acting as the designee of the commissioner determines that a child will not require adult services, as defined in the department's comprehensive services plan, the local social services official acting as the designee of the commissioner shall notify the child's parent(s) or guardian in writing of such determination. Such notification shall be given as soon as practicable after receiving the report but no later than six months before the child attains the age of 21.

(4) If the social services official acting as the designee of the commissioner determines that the department is not responsible for determining and recommending adult services for a child, the social services official, acting as the designee of the commissioner, shall promptly notify in writing the committee on the handicapped, multidisciplinary team, social services official or authorized agency which sent the report and the department that such determination has been made. Such determination shall be made as soon as practicable after receiving the report. The notice shall state the reason(s) why the social services official determined that he was not responsible for determining the need for adult services and may recommend another State agency which may be responsible for determining and recommending adult services. Any such recommendation of another State agency shall be based on consideration of the child's primary handicapping condition and shall be in accordance with the criteria set forth in paragraph (c)(3) of this section.

(5) A determination or recommendation for adult services by the department or a local social services official shall not be construed to create an entitlement to adult services.

Historical Note

Sec. added by remum. 470.14, filed April 26, 1978, amd. filed Oct. 17, 1985 eff. Oct. 17, 1986.



