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

Transmittal No: 97 LCM-24

Date: March 17, 1997

Division: Services and
Community
Development

TO: Local District Commissioners

SUBJECT: Complaint/Referral Procedures Adopted By
Child Care Resource and Referral Agencies

ATTACHMENTS: Attachment A - CCRR Agency Complaint/Referral Policy
(available on-line)
Attachment B - BECS Regional Office Contacts
(available on-line)

The purpose of this Local Commissioners Memorandum (LCM) is to inform social services districts of changes in the way that Child Care Resource and Referral (CCRR) agencies maintain child day care provider referral lists and furnish information about providers to parents who are looking for child care services. These changes are intended to give parents, social services districts and communities more confidence in the quality of the referrals made by CCRR agencies.

New York State currently supports a statewide system of 40 CCRRs to provide information and referral services to parents who need help locating and selecting child care services. As part of their contractual relationship with the Department, CCRRs are required to maintain a list of all regulated child day care providers - day care centers, family day care homes, group family day care homes and school age child care programs - operating within their service areas.

Sometimes, in the course of their work, a CCRR will become aware that a complaint has been alleged against a provider. A few months ago, the Department learned that, in the absence of a Department directive, individual CCRRs had developed and implemented varying practices for responding to such information. Some CCRRs temporarily removed the accused

provider from their referral lists while others did not. This inconsistency in CCRR practices was particularly confusing and disturbing to providers who were on the referral list in more than one county due to their location (i.e. close to a county line) and commuter patterns.

The Department has worked with the CCRR agencies to develop a consistent statewide policy which defines the circumstances which will result in the removal of a provider from a CCRR's referral list. In developing a policy, we have tried to strike a balance among several interests. These include:

- o the rights of parents to receive up to date, relevant information regarding a program's compliance history so that they can make informed placement decisions for their children;
- o the need to reduce the likelihood of additional children being placed at risk in programs where there are documented, serious compliance issues; and
- o the rights of providers to pursue their businesses without undue interference.

Effective March 17, 1997, CCRRs which are under contract with the Department will implement a consistent statewide complaint/referral policy. This policy provides for the removal of a provider from a CCRR's referral list when any of the following three compliance issues arises: an enforcement action, a serious regulatory violation, or an allegation of abuse or maltreatment of a child in a day care setting. Attachment A provides the complete complaint/referral policy, including the conditions under which providers will be restored to the referral list.

A social services district also may wish to discontinue referrals to an individual provider when any of the three compliance issues listed in the previous paragraph exists. Therefore, the Department and its registration contractors will furnish social services districts with the same information given CCRRs regarding removing providers from and restoring providers to the referral lists. The Regional Day Care Managers will work with each social services district to identify the appropriate person to receive this information.

It should be noted that while a district may choose to use the information provided by the Department to discontinue referrals to a provider with a compliance issue, that does not mean that subsidy payments can be discontinued. To the extent that the subsidy is subject to the parental choice provisions set forth in Section 415.4(a)(1)(vii) of Department regulations and the provider is permitted by the Department to continue providing care, a social service district may not require parents to make other child care arrangements.

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Questions regarding this LCM may be directed to Suzanne Zafonte Sennett, the Director of the Bureau of Early Childhood Services, at 518-474-9454, User ID AW1160, or to the Day Care Manager of the Bureau of Early Childhood Services Regional Office serving your county (see Attachment B).

Rose M. Pandozy
Deputy Commissioner
Services and Community Development

CHILD CARE RESOURCE AND REFERRAL AGENCY

COMPLAINT/REFERRAL POLICY

1. Removal and Reinstatement of Providers from CCRR Referral List-- Providers will be flagged and removed from CCRR referral listings when any of the following three compliance issues arise: an enforcement action, a serious regulatory violation (see attached criteria), or an allegation of abuse or maltreatment of a child in a day care setting.
 - a. Enforcement Actions--Providers will be flagged by the Department for removal from the referral list at the point that a formal decision has been made by the Department to revoke or suspend their license or registration (i.e., issuance of the notice of suspension or revocation).
 - b. Serious Violations--Once a violation has been substantiated and has been determined to be serious, the provider will be flagged. After a violation has been documented, the inspector sends the provider a corrective action plan specifying the time frame for correction. In the case of violations determined to be serious (per the attached criteria), the provider will be removed from the referral list until each serious violation has been corrected. In general, CCRRs will be notified every two weeks by the regional offices of providers who have been flagged and those whose flags should be removed and restored to the CCRR referral listing. In counties where there is a contract for registration, the registrar will notify the CCRR simultaneously to notifying the regional office of a serious, substantiated violation and of correction of these violations.
 - c. CPS Allegations--In the case of all CPS allegations, the provider will be removed from the referral list upon receipt of the allegation. CPS allegations are the only circumstance in which an allegation rather than a substantiated violation would trigger removal from the referral list. Providers will be restored to the referral list as soon as the regional office has verified that a plan is in place to ensure the safety of the children in the program from the alleged perpetrator(s).
2. Complaint Investigation Timeframes--Regional Office policy is to initiate the investigation of any complaint allegation involving potential imminent danger to children within 24 hours, any serious complaint allegation within 5 days, and all other complaint allegations within 15 days. Registration contractors with the responsibility for complaint inspection are expected to adhere to these time frames as well. For complaint allegations that do not involve CPS, providers will remain on the referral list until a licensor has initiated the investigation and established that serious violations are present.

3. Response to Parent Inquiries by CCRR--Generally, when a CCRR provides a parent with the names of programs for referral, the CCRR will let the parent know that if the parent wants more information regarding those programs' complaint or violation histories, the parent must contact the regional office. The exception to this general rule applies when a registration contractor is responsible for conducting inspections of that family day care provider. In those instances, the CCRR will refer the parent to the registrar for more information on the complaint or violation history. If the parent should inquire regarding a program that has been removed from the referral list in accordance with this policy, the CCRR will indicate that it does not currently have any information regarding that program's status and refer the parent to the regional office or registrar for additional information. CCRRs will not provide information on a program's compliance history to parents. They will not remove programs from their referral lists unless they have been instructed by the regional office or registration contractor to do so.

4. Flow of Information--CCRRs will be notified immediately to remove programs on which there is a CPS allegation or a decision to take an enforcement action. In the case of a CPS allegation, providers will be restored to the referral list as soon as the regional office has verified that a plan is in place to ensure the safety of the children in the program from the alleged perpetrator(s). Otherwise CCRRs will be notified to remove or restore providers from their referral lists through a biweekly transmittal from regional offices and registration contractors. (Registration contractors may opt to provide more frequent updates if there is no undue administrative burden in doing so.)

CRITERIA FOR SERIOUS VIOLATION

Serious violation means a circumstance or behavior which places a child at risk of significant or substantial injury or harm. Serious circumstances or behaviors may include, but are not limited to, the following:

- o Leaving children alone;
- o Lack of supervision or inadequate supervision;
- o Excessive numbers of children;
- o Use of corporal punishment;
- o Isolation of children;
- o Fire and/or safety hazards;
- o Lack of response, inappropriate response, or inadequate response by a provider to a child's medical, health, or nutritional needs, or
- o A pattern of repeated regulatory violations or other circumstances or behaviors not mentioned above that place a child at risk of significant injury or harm.

BUREAU OF EARLY CHILDHOOD SERVICES

REGIONAL OFFICES

BUFFALO REGIONAL OFFICE Chautauqua, Cattaraugus, Allegany, Erie,
Wyoming, Genesee, Niagara and Orleans Counties

Carolyn Huffman, Regional Day Care Manager
NYS Dept. of Social Services
295 Main Street 8th floor
838 Ellicott Square Building
Buffalo, New York 14203
(716) 847-3828; Userid AX9150

ROCHESTER REGIONAL OFFICE Monroe, Wayne, Livingston, Ontario, Yates,
Seneca, Schuyler, Steuben and Chemung Counties

Ella Renckert, Regional Day Care Manager
NYS Dept. of Social Services
259 Monroe Avenue, 3rd floor
Monroe Square
Rochester, New York 14607
(716) 238-8531; Userid AY6740

SYRACUSE REGIONAL OFFICE Tioga, Broome, Chenango, Cortland, Tompkins,
Cayuga, Onondaga, Madison, Herkimer, Oneida,
Oswego, Lewis, Jefferson and St. Lawrence
Counties

Carol Russ, Licensing Supervisor
NYS Dept. of Social Services
351 South Warren Street, 5th floor
Syracuse, New York 13202
(315) 423-1204; Userid AY7770

ALBANY REGIONAL OFFICE Delaware, Greene, Columbia, Rensselaer, Albany,
Schoharie, Otsego, Schenectady, Montgomery,
Saratoga, Fulton, Washington, Warren, Hamilton,
Essex, Franklin and Clinton Counties

Mabel Leon, Regional Day Care Manager
NYS Dept. of Social Services
40 North Pearl Street (3 City Square)
Albany, New York 12243
(518) 432-2763; Userid AW1040

YONKERS REGIONAL OFFICE Sullivan, Ulster, Dutchess, Orange, Putnam,
Rockland and Westchester Counties

Frances Pena, Regional Day Care Manager
NYS Dept. of Social Services
525 Nepperhan Avenue - Room 205
Yonkers, New York 10703
(914) 376-8810; Userid AW1890

HEMPSTEAD REGIONAL OFFICE Nassau and Suffolk Counties

Aurora Farrington, Regional Day Care Manager
NYS Dept. of Social Services
175 Fulton Avenue - Suite 502
Hempstead, New York 11550
(516) 564-4980; Userid AW3830

METROPOLITAN REGIONAL OFFICE the five boroughs of New York City

Judith Rollins, Regional Day Care Manager
NYS Dept. of Social Services
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New York, New York 10038
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