

Child Support Requirements Notification Letter

Notice Date: _____

Case Number: _____

CIN Number: _____

Dear _____:

New York State requires that low-income families who are applying for or receiving child care benefits *actively pursue child support*. This is required whenever a non-custodial parent is absent from the home, unless the Department of Social Services determines you have *good cause* not to actively pursue child support. This requirement to actively pursue child support, which became effective on May 15, 2004, is necessary because:

- all children deserve support from both parents;
- child support is an important part of assisting a family to become self-sufficient; and
- by obtaining child support, more families in need of child care benefits may receive them.

You will be ineligible for child care benefits, unless you demonstrate to your child care worker that you are actively pursuing child support or you have good cause not to pursue child support. This requirement applies to all of your dependent children, even if you are not applying for child care for each child.

Enclosed with this letter is information on:

- Actively pursuing child support;
- Documenting your efforts to actively pursue child support;
- Claiming good cause not to actively pursue child support;
- Proving that good cause exists; and
- A father's rights when paternity is established.

Also enclosed is the Agreement to Actively Pursue Child Support or Good Cause Claim form, OCFS/LDSS-7011, which you should complete after you read the other enclosures. On this form you must indicate either your willingness to actively pursue child support or your inability to actively pursue child support because you are claiming good cause. **By _____, you must return the enclosed form, OCFS/LDSS-7011, and either demonstrate that you are actively pursuing child support or claim good cause not to actively pursue child support.** You have 20 days to submit proof of your good cause claim. If you are claiming good cause and need additional time to gather documentation, please tell your child care worker.

If you have any questions regarding the child support requirements, please call Chris Rose, at 268-4036.

Sincerely,

Chris Rose

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Actively Pursuing Child Support

You can actively pursue child support in the following ways:

- Establish paternity for your child (legally determining the child's father),
- Obtain a court order of child support, and
- Get the child support owed to you.

Things you may be required to do when actively pursuing child support include, but are not limited to:

- Provide information to identify and locate the non-custodial parent,
- Provide information or documentation needed to establish paternity (legally determining the child's father),
- Take all actions deemed necessary for genetic testing for yourself and the child,
- Take all actions deemed necessary to establish child support orders,
- Take all actions deemed necessary to modify an existing order that does not address child care,
- Take all actions deemed necessary to enforce an existing child support order when you are not receiving the support payments as ordered,
- Appear as a party/witness at a court proceeding, and
- Provide additional information as needed or attest to the lack of information under penalty of perjury.

You can do this by:

- Hiring private legal counsel who will prepare and file petitions, represent you in court and work to actively pursue support,
- Doing these things on your own, or
- Applying for child support enforcement services with the Department of Social Services' Child Support Enforcement Unit (CSEU). With the exception of legal services, child support services through the CSEU are provided free of charge.

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Documenting Your Efforts

If you do not have a court order for child support:

- Show your child care worker that you have an appointment with or have applied for child support services from the CSEU and are actively pursuing support; or
- Submit your detailed written plan of activities and timeframes which includes the actions you or your legal representative have taken or will take to actively pursue child support, and documentation which supports these actions.

If you have a court order for support:

- Show your child care worker a copy of the court order for child support and evidence of child support payments, such as deposit records of child support payment checks or other payment records; OR
- Show your child care worker a copy of the court order for child support. If support is not being received, document your attempts to have the child support order enforced. Proof may include court documentation such as a copy of the violation petition, court summonses, court orders following the violation.

You must provide a report at case opening and at each recertification to show you are actively pursuing child support. Your worker may require more frequent reports depending on your case circumstances. The report must list the actions you have taken and/or will take to pursue child support, and when you expect to complete these actions. You must document the actions you describe in the report.

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Claiming Good Cause Not To Actively Pursue Child Support

You have the right to claim good cause not to actively pursue child support if pursuing child support would adversely affect your health, safety or welfare; the health, safety and welfare of the child on whose behalf child care payments are to be made; or the health, safety and welfare of other persons in the child's household. Some of the reasons that may be considered good cause include:

- Your active pursuit of child support is likely to cause physical or emotional harm to you, your child, or someone living in your household; OR
- Your child came from a pregnancy due to incest or rape; OR
- You are working with the court or an authorized adoption agency to have your child adopted.

To establish that good cause exists, you must claim good cause on the OCFS/LDSS-7011, Agreement to Actively Pursue Child Support or Good Cause Claim form and submit it to the Department of Social Services. Then, you must prove that good cause exists by providing documentation.

If you are claiming good cause, your application or recertification for child care benefits will be processed for a maximum authorization period of three months, while the good cause determination is made. The Department of Social Services will inform you of its decision on the OCFS/LDSS-7012, Notice of Good Cause Determination. If good cause is established, the authorization period will be extended to the normal six or twelve month reauthorization period.

You have the right to make a good cause claim **at any time** by telling your child care worker about your concern.

Proving That Good Cause Exists

In addition to submitting your claim of good cause, you must prove to the Department of Social Services that good cause exists. To do this, you must explain the circumstances and provide evidence by the date it is required. If you need additional time to gather evidence, you must tell your worker. The Department of Social Services may give you up to an additional 20 days to obtain the evidence.

Examples of evidence you can give for a good cause claim include:

- Birth certificate, medical or law enforcement records which show that your child came from a pregnancy due to incest or rape;
- Court records or other records that show that a legal adoption proceeding is pending in court;
- Court, medical, criminal, child protective, social services, psychological or law enforcement records which show that the non-custodial parent might physically or emotionally harm you, the child or another household member;
- Medical records indicating that the child, custodial parent/caretaker or other household member has an emotional health history and a present emotional health status which indicates that pursuing child support would be detrimental to the mental and or emotional health of that person;
- A written statement from a public or private agency that you are being aided in a decision on whether to keep or put your child up for adoption;

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- Sworn statements from individuals, other than yourself, with knowledge of the good cause circumstances. Such individuals might include friends, relatives, neighbors, clergy, social workers and medical staff. The sworn statement must attest to circumstances that indicate pursuing child support would adversely affect the health, safety or welfare of the child on whose behalf child care payments are to be made or of other person's in the child's household. It must be signed in front of and witnessed by a person who is empowered to administer an oath to the testifier. Persons authorized to administer an oath include public notaries, commissioners of deeds, judges, town justices, and justices of the peace; or
- A domestic violence waiver received while you were getting Temporary Assistance. The domestic violence waiver must be dated within the last 12 months of your application or recertification for child care.

If you need help, ask the Department of Social Services. If your good cause claim is due to physical harm, the Department of Social Services may still be able to approve your good cause claim if you cannot get the evidence.

You must submit your evidence within 20 days of completing the good cause claim. If you need additional time to get the evidence, ask your child care worker if you can be granted an extension.

Once you make a good cause claim and submit your evidence, the Department of Social Services will examine the evidence and notify you if additional evidence is needed. If you do not submit any evidence or no evidence exists, and your good cause claim is based on anticipated physical harm, the Department of Social Services may still investigate the good cause claim even without evidence, as long as you submit a sworn statement signed by an individual other than yourself and the Department of Social Services feels the sworn statement is credible.

The Department of Social Services will determine whether good cause exists based on the parent/caretaker's evidence and the investigation by the Department of Social Services, if needed. You will receive notification of the decision made by the Department of Social Services on the OCFS/LDSS-7012, Notice of Good Cause Determination.

A final good cause determination will be made within 30 days after you sign and submit the Good Cause Claim, unless the Department of Social Services allows you additional time to provide documentation. If additional time is allowed for you to submit documentation, the final determination of good cause will be made within 10 days following the extended due date.

If you do not provide the required information by the required date, you will receive a notice that the Department of Social Services intends to deny or discontinue your child care benefits because you have not actively pursued child support and have not demonstrated good cause not to pursue support.

If the Department of Social Services determines that good cause does not exist, refusal to actively pursue support will result in the Department of Social Services denying your application or closing your child care case. If this happens, you will be notified of your right to request a fair hearing to review the Department of Social Services' decision in this matter.

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A Father's Rights When Paternity is Established

Prior to establishing an order for child support it may be necessary to legally establish the child's father. This is known as establishing paternity. A court may establish paternity by naming the legal father of a child, or paternity may be established when the mother and father acknowledge a child's father by signing an acknowledgment of paternity form anytime after the child is born. Your child care worker will need to verify that the form was properly filed and the father is registered in the Putative Father Registry.

Establishing paternity provides a father legal responsibilities *and* legal rights to a child, including:

- The right to seek custody of the child;
- The right to seek visitation with the child;
- The right to take part in any adoption or foster care plans for the child;
- The right to object to any adoption or foster care placements of the child; and
- The right to inherit from the child.