

FAMILY ASSISTANCE (FA) PROGRAM – SEEKING PARENTAL FINANCIAL SUPPORT*

The overall public purpose of family assistance (FA), public assistance (PA) or the Safety Net Assistance (SNA) programs is motivated by society’s concern for all children, to guarantee a minimum level of available support for their essential needs through their caregivers, regardless of circumstances. The regulations for qualifying for the FA program are governed by N.Y. Comp. Codes R. & Regs. tit. 18, § 369.2. (18 NY ADC 369.2).

Two Types of Family Need Circumstances are Contemplated by These Rules:

(a) Dependent relative. When the child is living with an eligible relative other than a parent, who is without adequate means of support, financial need shall be determined for the family unit in accordance with public assistance standards.

(b) Self-maintaining, non-legally responsible relative. If you are a non-legally responsible relative who is self-maintaining or is supported by a spouse or other person who is not a legally responsible relative, an FA grant may be made for your needy child. Such grants are called “non-parent” grants.

Requirement for Cooperation with Child Support Enforcement Program

If an absent parent has been determined to be legally responsible for child support, it is reasonable, while you are receiving PA, SA or SNA assistance, for social services providers to expect your help in seeking recourse through the Child Support Enforcement Program. Thus, in addition to demonstrating need, ordinarily state social services laws require that you provide your caseworker with certain information needed by state social services officials to find and pursue the absent parent to attempt to enforce child support orders¹.

Cooperation includes the following²:

(a) completing the child support enforcement referral form and, at a minimum, providing verifiable information on the form sufficient to identify and locate the absent parent or putative (assumed) father, including:

(1) the full name and social security number of the absent parent or putative father; or

(2) the full name of the absent parent or putative father and at least two of the following concerning such parent or father:

(i) date of birth;

¹ 18 NYCRR 369.2, Subdivision (a)

² 18 NYCRR 369.2, Subdivision (b)(c)(ii)(a)

(ii) residential and, if different, mailing address;

(iii) telephone number; and

(iv) name and address of employer; or

(3) the full name and any additional information equivalent to the information [above] that leads to establishment of the absent parent's or putative father's identity and location.

(b) appearing at the local child support enforcement unit, as necessary, to provide the child support enforcement referral form and such oral or written information or documentary evidence, known to be possessed by or reasonably obtainable by the applicant or recipient...

(c) appearing as a witness at court or other hearings or proceedings

(d) providing information or attesting to the lack of information under penalty of perjury;

(e) submitting the child and herself or himself to genetic tests, pursuant to judicial order or administrative direction; and

(f) after an assignment of support under this subdivision has been made, paying to the support collection unit any payments received from the absent parent which are covered by that assignment;

WAIVERS FROM COOPERATION REQUIREMENT

However, in some cases you may have good reason to fear your cooperation with enforcement by legally responsible adults could result in danger to yourself or your child if they learn that you helped state officials pursue him. These are waivers in that case that you may qualify for.

An applicant for or recipient of public assistance who, as a victim of domestic violence, has been granted a waiver of child support cooperation requirements is not required to cooperate to the extent authorized by such waiver.

To qualify, you must state and corroborate the circumstances you believe constitute good cause for not cooperating. You may still, if requested, provide sufficient information (such as the putative father or absent parent's name and address, if known) to permit an investigation in order to corroborate the facts you state.

There are other circumstances in a waiver may be obtained because cooperation is not in the best interests of the child. These include³:

(a) the applicant's or recipient's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

(1) physical harm to the child for whom support is to be sought;

(2) emotional harm to the child for whom support is to be sought;

(3) physical harm to the parent or caretaker relative with whom the child is living which reduces such person's capacity to care for the child adequately;

(4) emotional harm to the parent or caretaker relative with whom the child is living, of such nature or degree that it reduces such person's capacity to care for the child adequately; or

(b) the child for whom support is sought was conceived as a result of incest or forcible rape; or

(c) legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(d) the applicant or recipient is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and discussions have not gone on for more than three months.

Note that an informational letter from the NYS Commissioner to local county commissioners explains that waivers for “good cause” should be granted. For information about his letter, contact the NYS Kinship Navigator via our toll free phone line 877-454-6463.

*Revised – January 9, 2015. The above information is not legal advice. It is not a substitute for consulting an attorney. Up-to-date legal advice and legal information can only be obtained by consulting with an attorney. Any opinions, legal opinions, findings, conclusions or recommendations expressed in this publication or on the NYS Kinship Navigator website or by any person or entity to whom you may be referred are those of the Kinship Navigator, Catholic Family Center and/or the person or entity you are referred to and do not necessarily represent the official views, opinions, legal opinions or policy of the State of New York and/or the New York State Office of Children and Family Services (OCFS). NYS Kinship Navigator is a Catholic Family Center program, funded by the New York State Office of Children and Family Services. Catholic Family Center is the only agency authorized by New York State to provide a statewide information and referral service to kinship caregivers. The information herein is published by the NYS Kinship Navigator.

³ 18 NYCRR 369.2, Subdivision (b)(4) et seq.