

F.C.A. §§ 413, 440, 442-447,  
449, 451, 461, 466, 467

Form 4-11a  
(Support- Order Extending, Modifying  
or Terminating Order of Support Made by  
Family Court or Another Court)  
4/2011

At a term of the Family Court of the  
State of New York, held in and for  
the County of \_\_\_\_\_,  
at \_\_\_\_\_, New York  
on \_\_\_\_\_.

**P R E S E N T:**

Hon.

Judge/Support Magistrate

.....  
In the Matter of a Proceeding for  
Support under Article 4 of the Family

Docket No.

(Commissioner of Social Services, Assignee,  
on behalf of \_\_\_\_\_, Assignor)

**ORDER ON PETITION TO**  
 **EXTEND**  
 **MODIFY**  
 **TERMINATE AN**  
**ORDER OF SUPPORT**  
**MADE BY**  
 **FAMILY COURT**  
 **ANOTHER COURT**

Petitioner,

S.S. #: xxxx-xx-\_\_\_\_\_

-against-

Respondent

S.S.#: xxxx-xx-\_\_\_\_\_

.....  
**NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY  
RESULT IN INCARCERATION FOR CRIMINAL NON-SUPPORT  
OR CONTEMPT. YOUR FAILURE TO OBEY THIS ORDER  
MAY RESULT IN SUSPENSION OF YOUR DRIVER'S LICENSE,  
STATE-ISSUED PROFESSIONAL, TRADE, BUSINESS AND  
OCCUPATIONAL LICENSES AND RECREATIONAL AND  
SPORTING LICENSES AND PERMITS; AND IMPOSITION OF  
REAL OR PERSONAL PROPERTY LIENS.**

**IF THIS ORDER WAS ENTERED BY A JUDGE, THE ORDER  
MAY BE APPEALED PURSUANT TO SECTION 1113 OF THE  
FAMILY COURT ACT. THAT SECTION PROVIDES THAT AN  
APPEAL FROM THAT ORDER MUST BE TAKEN WITHIN 30  
DAYS AFTER RECEIPT OF THE ORDER BY THE APPELLANT  
IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE**

ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF THE COURT, WHICHEVER IS EARLIEST.

**IF THIS ORDER WAS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PERSONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.**

The petition having been filed in this Court seeking to  terminate  extend  modify a  judgment  order, dated \_\_\_\_\_, \_\_\_\_\_, granting support made by the  Supreme Court of the State of New York, \_\_\_\_\_ County, entitled \_\_\_\_\_ Index No.  Family Court of \_\_\_\_\_ County  Other court: \_\_\_\_\_; and

[Check applicable box(es)]:

It appearing that under the terms of the  judgment  order the  Supreme Court  Other [specify]: \_\_\_\_\_  has  has not retained exclusive jurisdiction to modify the  judgment  order; and

It appearing that the \_\_\_\_\_ Court is a court of competent jurisdiction outside the State of New York; and

It appearing that [check applicable box(es)]::

- there has been a substantial change of circumstances since the entry of the  judgment  order;
- there has been a change in excess of 15% in income since the entry of the  judgment  order and the parties had not opted out of this ground for modification in a validly executed written agreement or stipulation;<sup>1</sup>
- three years have elapsed since the entry of the  judgment  order and the parties had not opted out of this ground for modification in a validly executed written agreement or stipulation;<sup>2</sup>
- no grounds exist in accordance with Family Court Act §451(2) or Domestic Relations Law §236B(9)(b)(2) for seeking a modification of child support;

**The matter having duly come on to be heard before this Court, NOW, after examination and inquiry into the facts and circumstances of the case, and after hearing the proofs and testimony, the Court finds that;**

<sup>1</sup> This ground only applies to original or modified support orders entered on or after October 13, 2010.

<sup>2</sup> This ground only applies to original or modified support orders entered on or after October 13, 2010.

The basic child support obligation for support of the following child(ren) is  
\$ \_\_\_\_\_  weekly,  every two weeks,  monthly,  twice per month,  quarterly:  
NAME                      DATE OF BIRTH      SOC. SEC. # (last 4 digits)      AMOUNT

The mother is the custodial  non-custodial parent, whose pro rata share of the basic child support obligation is \$ \_\_\_\_\_;

The father is the custodial non-custodial parent, whose pro rata share of the basic child obligation is \$ \_\_\_\_\_  weekly,  every two weeks,  monthly,  twice per month,  quarterly;

And the Court finds further that:

The non-custodial parent's pro rata share of the basic child support obligation is neither unjust nor inappropriate;<sup>3</sup>

OR

Upon consideration of the following factors specified in Family Court Act §413(1)(f):

the non-custodial parent's pro rata share of the basic child support obligation is:

unjust     inappropriate;<sup>4</sup>

[Applicable in cases in which the parties stipulated to an order of child support]:

And the Court finds that the parties have voluntarily stipulated to child support for the child(ren)[names] \_\_\_\_\_ payable by \_\_\_\_\_ in the amount of \$ \_\_\_\_\_  weekly,  every two weeks,  monthly,  twice per month,  quarterly.

This stipulation has been entered into the record and recites, in compliance with Family Court Act § 413(1)(h), that:

a. The parties have been advised of the provisions of Family Court Act §413(1);

b. The unrepresented party, if any, has received a copy of the Child Support Standards chart promulgated by the Commissioner of the N.Y.S. Office of Temporary and Disability Assistance pursuant to Social Services Law § 111-i;

c. The basic child support obligation as defined in Family Court Act Section 413(1) presumptively results in the correct amount of child support to be awarded;

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<sup>3</sup>This paragraph is to be used if the basic child support obligation is applied without deviation.

<sup>4</sup>This paragraph is to be used only if the court's order deviates from the basic child support obligation, pursuant to F.C.A. § 413(1)(g).

d. The basic child support obligation in this case is \$ \_\_\_\_\_  weekly  every two weeks  monthly  twice per month  quarterly; and

e. The parties' reason(s) for agreeing to child support in an amount different from the basic child support obligation (is) (are) [specify]:

The Court approves the parties' agreement to deviate from the basic child support obligation for the following reasons: [specify; see Family Court Act Section 413(1)(f)]:

The name, address and telephone number of  
 Respondent's  (modification only): Petitioner's current employer(s), are:  
NAME ADDRESS TELEPHONE

NOW, therefore, it is hereby

ORDERED that the petition for modification is DENIED.

**OR**

ORDERED that the  judgment  order, dated \_\_\_\_\_, is terminated;

ORDERED that the  judgment  order dated \_\_\_\_\_, is continued until further order of this Court;

ORDERED that the  judgment  order, dated \_\_\_\_\_, is modified in the following respects [specify]:

AND the defaulting party having  shown  failed to show good cause for failure to make an application for relief from the judgment or order directing payment prior to the accrual of the arrears, it is

ORDERED that arrears in the amount of \$ \_\_\_\_\_ are  annulled  reduced to \$ \_\_\_\_\_  fixed at the full amount of \$ \_\_\_\_\_; and it is further

ORDERED that judgment be entered in favor of the Petitioner against the Respondent in the amount of \$ \_\_\_\_\_,  plus interest [CPLR 5004] from \_\_\_\_\_, in the amount of \$ \_\_\_\_\_,  plus costs and disbursements in the amount of \$ \_\_\_\_\_, for a total sum of \$ \_\_\_\_\_; and it is further

ORDERED and ADJUDGED that the above-named  Respondent  Petitioner is responsible for the support so ordered from the date of the filing of the petition to the date of this Order  less the amount of \$ \_\_\_\_\_ already paid, and that the  Respondent  Petitioner shall pay the sum of \$ \_\_\_\_\_ as follows: \$ \_\_\_\_\_ immediately, \$ \_\_\_\_\_  weekly,  every

two weeks,  twice per month,  quarterly, to [check applicable box]:

Petitioner by cash, check or money order

Respondent by cash, check or money order

Non-IV-D cases: Payable to the Petitioner by check or money order and mailed to P. O. Box 15365, Albany, NY 12212-5365. The county name and account number for the matter must be included with the payment for identification purposes.

IV-D cases: Payable by check or money order made payable to and mailed to the NYS Child Support Processing Center, PO Box 15363, Albany, NY 12212-5363. The county name and account number for the matter must be included with the payment for identification purposes; and it is further

[Non-IV-D cases only]:  ORDERED that, pursuant to Family Court Act Section 440(1)(b)(2), this order shall be enforceable by immediate income deduction order issued in accordance with Section 5242(c) of the Civil Practice Law and Rules; and it is further

ORDERED that, for the following reason(s)

constituting good cause pursuant to Section 440(1)(b) of the Family Court Act, the  IV-D cases: Support Collection Unit  Non-IV-D cases: Court shall NOT issue an immediate income execution; however, in the event of default,<sup>6</sup> this order shall be enforceable pursuant to section 5241 or 5242 of the Civil Practice Law and Rules, or in any other manner provided by law; and it is further

[IV-D cases only]:  ORDERED that the Respondent, custodial parent and any other individual parties immediately notify the Support Collection Unit of any changes in the following information: residential and mailing addresses, social security number, telephone number, driver's license number; and name, address and telephone numbers of the parties' employers and any change in health insurance benefits, including any termination of benefits, change in the health insurance benefit carrier or premium, or extent and availability of existing or new benefits;

And the Court having determined that [check applicable box]:

The child(ren) are currently covered by the following health insurance plan [specify]:  
which is maintained by [specify party]:

Health insurance coverage is available to one of the parents or a legally-responsible relative [specify name]:  
under the following health insurance plan [specify, if known]:  
which provides the following health insurance benefits [specify extent and type of benefits, if known, including any medical, any medical dental, optical, prescription drug and health care services or other health care benefits]:

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<sup>6</sup> "Default", as defined in CPLR 5241, means the failure to make three payments on the date due in the full amount directed in this order, or the accumulation of arrears, including amounts arising from retroactive support, that are equal to or greater than the amount directed to be paid for one month, whichever occurs first.

Health insurance coverage is available to both of the parents as follows:

<u>Name</u>	<u>Health Insurance Plan</u>	<u>Premium or Contribution</u>	<u>Benefits</u>
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No legally-responsible relative has health insurance coverage available for the child(ren), but the child(ren) may be eligible for health insurance benefits under the New York “Child Health Plus” program or the New York State Medical Assistance Program, or the publicly funded health insurance program in the State where the custodial parent resides,

No legally-responsible relative has health insurance coverage available for the child(ren), but the child(ren) are currently enrolled in the New York State Medical Assistance Program.

IT IS THEREFORE ORDERED that [specify name(s) of legally-responsible relative(s)]:

continue to maintain health insurance coverage for the following eligible dependent(s) [specify]:  
[specify]: under the above-named existing plan for as long as it remains available;

enroll the following eligible dependent(s) [specify]:  
under the following health insurance plan [specify]:  
immediately and without regard to seasonal enrollment restrictions and maintain such coverage as long as it remains available in accordance with

[IV-D cases]:  the Medical Execution, which shall be issued immediately by the Support Collection Unit, pursuant to CPLR 5241

the Medical Execution issued by this Court

[Non-IV-D cases]:  the Qualified Medical Child Support Order.

Such coverage shall include all plans covering the health, medical, dental, optical and prescription drug needs of the dependents named above and any other health care services or benefits for which the legally-responsible relative is eligible for the benefit of such dependents; provided, however, that the group health plan is not required to provide any type or form of benefit or option not otherwise provided under the group health plan except to the extent necessary to meet the requirements of Section 1396(g-1) of Title 42 of the United States Code. The legally-responsible relative(s) shall assign all insurance reimbursement payments for health care expenses incurred for (his)(her) eligible dependent(s) to the provider of such services or the party having actually incurred and satisfied such expenses, as appropriate;

**OR**

IT IS THEREFORE ORDERED that the custodial parent [specify name]:

shall immediately apply to enroll the eligible child(ren) in the “Child Health Plus” program (the NYS health insurance program for children) and the New York State Medical Assistance Program or the publicly funded health insurance program in the State where the custodial parent resides, it is hereby.

And the Court further finds that:

The mother is the  custodial  non-custodial parent, whose pro rata share of the cost or premiums to obtain or maintain such health insurance coverage is \_\_\_\_\_;

The father is the  custodial  non-custodial parent, whose pro rata share of the cost or premiums to obtain or maintain such health insurance coverage is \_\_\_\_\_;

And the Court further finds that [check applicable box]:

Each parent shall pay the cost of premiums or family contribution in the same proportion as each of their incomes are to the combined parental income as cited above;

Upon consideration of the following factors [specify]:  
pro-rating the payment would be unjust or inappropriate for the following reasons [specify]:

Therefore, the payments shall be allocated as follows [specify]:

; and it is further

**OR**

[Where the child(ren) are recipients of managed care coverage under the New York State Medical Assistance Program] ORDERED that \_\_\_\_\_, the non-custodial parent herein, shall pay the amount of \$ \_\_\_\_\_ per \_\_\_\_\_ toward to the managed care premium under the New York State Medical Assistance Program;

[Where the child(ren) are recipients of fee-for-service coverage under the New York State Medical Assistance Program] ORDERED that \_\_\_\_\_, the non-custodial parent herein, shall pay up to an annual maximum of \$ \_\_\_\_\_ for the current calendar year to the New York State Medical Assistance Program upon written notice that the program has paid health care expenses on behalf of the child(ren) for costs incurred during the current calendar year.

[Where the child(ren) are recipients of fee-for-service coverage under the New York State Medical Assistance Program] ORDERED that \_\_\_\_\_, the non-custodial parent herein, pay as part of the cash medical support obligation up to an annual maximum of \$ \_\_\_\_\_ for the calendar year commencing January 1, \_\_\_\_\_ and for every year thereafter to the New York State Medical Assistance Program upon written notice that the Medicaid program has paid health care expenses on behalf of the child(ren).

ORDERED that \_\_\_\_\_, the non-custodial parent herein, shall pay the amount of \$ \_\_\_\_\_, representing his/her share of premiums and/or costs incurred by the New York State Medical Assistance Program for the period of time from \_\_\_\_\_ to the date of this order, which amount shall be support arrears/past due support;

ORDERED that in the event that the child(ren) cease(s) to be enrolled in the New York State Medical Assistance Program, the non-custodial parent's obligation to pay his/her share of managed care coverage premiums and/or fee-for-service reimbursement shall terminate as of the date the

child(ren) is/are no longer enrolled in Medicaid;

ORDERED that the legally responsible relative immediately notify the [check applicable box]:  
 other party (non-IV-D cases)  Support Collection Unit (IV-D cases) of any change in health insurance benefits, including any termination of benefits, change in the health insurance benefit carrier or premium, or extent and availability of existing or new benefits; and it is further

ORDERED that [specify name]: shall execute and deliver to  
[specify name]: any forms, notices, documents, or instruments to assure timely payments of any health insurance claims for said dependent(s); and it is further

ORDERED that upon a finding that the above-named legally-responsible relative(s) willfully failed to obtain health insurance benefits in violation of [check applicable box(es)]:  this order  the medical execution  the qualified medical child support order, such relative(s) will be presumptively liable for all health care expenses incurred on behalf of the above-named defendant(s) from the first date such dependent(s)  was  were eligible to be enrolled to receive health insurance benefits after the issuance of such order or execution directing the acquisition of such coverage; and it is further

ORDERED that [specify]: the legally-responsible relative(s) herein, shall pay  his  her pro rata share of future reasonable health expenses of the child(ren) not covered by insurance by [check applicable box]:  direct payments to the health care provider  other [specify]:  
; and it is further

ORDERED that, if health insurance benefits for the above-named child(ren) are not available at the present time become available in the future to the legally-responsible relative(s), such relative(s) shall enroll the dependent(s) who are eligible for such benefits immediately and without regard to seasonal enrollment restrictions and shall maintain such benefits so long as they remain available; and it is further

[Check applicable box(es):  
 ORDERED that , the non-custodial parent herein, pay the sum of \$ as  his  her proportionate share of reasonable child care expenses, to be paid as follows:  
; and it is further

ORDERED that , the non-custodial parent herein, pay the sum of \$ as educational expenses by  direct payment to the educational provider  other [specify]:  
; and it is further

ORDERED that [specify party or parties; check applicable box(es):  
 purchase and maintain  life and/or  accident insurance policy in the

amount of [specify]: \_\_\_\_\_ (and/or)

maintain the following existing  life and/or  accident insurance policy in the amount of [specify]: \_\_\_\_\_ (and/or)

assign the following as  beneficiary  beneficiaries [specify]: \_\_\_\_\_ to the following existing  life and/or  accident insurance policy or policies [specify policy or policies and amount(s)]: \_\_\_\_\_.

In the case of life insurance, the following shall be designated as irrevocable beneficiaries [specify]: \_\_\_\_\_ during the following time period [specify]: \_\_\_\_\_.

In the case of accident insurance, the insured party shall be designated as irrevocable beneficiary during the following time period [specify]: \_\_\_\_\_.

The obligation to provide such insurance shall cease upon the termination of the duty of [specify party]: \_\_\_\_\_ to provide support for each child;. and it is further

ORDERED that the Respondent is directed to:<sup>7</sup>

seek employment

participate in job training, employment counseling, or other programs designed to lead to employment [specify program]:

; and it is further

[IV-D cases only]:  ORDERED that when the person or family to whom family assistance is being paid, no longer receives family assistance, support payments shall continue to be made to the Support Collection Unit, unless such person or family requests otherwise;) and it is further

**[REQUIRED]** IT IS FURTHER ORDERED that a copy of this order be provided promptly by [check applicable box]:  Support Collection Unit ((IV-D cases: )  Clerk of Court (non-IV-D cases) to the New York State Case Registry of Child Support Orders established pursuant to Section 111-b(4-a) of the Social Services Law; and it is further

ORDERED that [specify]:

ENTER

\_\_\_\_\_  
(Judge of the Family Court)(Support Magistrate)

Dated:

Check applicable box:

Order mailed on [specify date(s) and to whom mailed ]: \_\_\_\_\_

Order received in court on [specify date(s) and to whom given]: \_\_\_\_\_

<sup>7</sup> Inapplicable where support obligor is receiving SSI or social security disability benefits. See FCA §437-a.

NOTE: (1) THIS ORDER OF CHILD SUPPORT SHALL BE ADJUSTED BY THE APPLICATION OF A COST OF LIVING ADJUSTMENT AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT NO EARLIER THAN TWENTY-FOUR MONTHS AFTER THIS ORDER IS ISSUED, LAST MODIFIED OR LAST ADJUSTED, UPON THE REQUEST OF ANY PARTY TO THE ORDER OR PURSUANT TO PARAGRAPH ( 2) BELOW. UPON APPLICATION OF A COST OF LIVING ADJUSTMENT AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT, AN ADJUSTED ORDER SHALL BE SENT TO THE PARTIES WHO, IF THEY OBJECT TO THE COST OF LIVING ADJUSTMENT, SHALL HAVE THIRTY-FIVE (35) DAYS FROM THE DATE OF MAILING TO SUBMIT A WRITTEN OBJECTION TO THE COURT INDICATED ON SUCH ADJUSTED ORDER. UPON RECEIPT OF SUCH WRITTEN OBJECTION, THE COURT SHALL SCHEDULE A HEARING AT WHICH THE PARTIES MAY BE PRESENT TO OFFER EVIDENCE WHICH THE COURT WILL CONSIDER IN ADJUSTING THE CHILD SUPPORT ORDER IN ACCORDANCE WITH THE CHILD SUPPORT STANDARDS ACT.

(2) A RECIPIENT OF FAMILY ASSISTANCE SHALL HAVE THE CHILD SUPPORT ORDER REVIEWED AND ADJUSTED AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT NO EARLIER THAN TWENTY-FOUR MONTHS AFTER SUCH ORDER IS ISSUED, LAST MODIFIED OR LAST ADJUSTED WITHOUT FURTHER APPLICATION OF ANY PARTY. ALL PARTIES WILL RECEIVE NOTICE OF ADJUSTMENT FINDINGS.

(3) WHERE ANY PARTY FAILS TO PROVIDE, AND UPDATE UPON ANY CHANGE, THE SUPPORT COLLECTION UNIT WITH A CURRENT ADDRESS TO WHICH AN ADJUSTED ORDER CAN BE SENT AS REQUIRED BY SECTION 443 OF THE FAMILY COURT ACT, THE SUPPORT OBLIGATION AMOUNT CONTAINED THEREIN SHALL BECOME DUE AND OWING ON THE DATE THE FIRST PAYMENT IS DUE UNDER THE TERMS OF THE ORDER OF SUPPORT WHICH WAS REVIEWED AND ADJUSTED OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THE ORDER, REGARDLESS OF WHETHER OR NOT THE PARTY HAS RECEIVED A COPY OF THE ADJUSTED ORDER.

(4) IN ADDITION TO A COST OF LIVING ADJUSTMENT, EACH PARTY HAS A RIGHT TO SEEK A MODIFICATION OF THE CHILD SUPPORT ORDER UPON A SHOWING OF: (I) A SUBSTANTIAL CHANGE IN CIRCUMSTANCES; OR (II) THAT THREE YEARS HAVE PASSED SINCE THE ORDER WAS ENTERED, LAST MODIFIED OR ADJUSTED; OR (III) THERE HAS BEEN A CHANGE IN EITHER PARTY'S GROSS INCOME BY FIFTEEN PERCENT OR MORE SINCE THE ORDER WAS ENTERED, LAST MODIFIED, OR ADJUSTED; HOWEVER, IF THE PARTIES HAVE SPECIFICALLY OPTED OUT OF SUBPARAGRAPH (II) OR (III) OF THIS PARAGRAPH IN A VALIDLY EXECUTED AGREEMENT OR STIPULATION, THEN THAT BASIS TO SEEK MODIFICATION DOES NOT APPLY.

