

F.C.A. §§ 413, 416, 433, 434,
439, 439-a, 440;
D.R.L. § 240

Form 4-6a
(Referral to Support
Magistrate and Temporary
Order of Support)
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 _____, _____.

PRESENT:

Hon.
Judge

.....
In the Matter of a Proceeding under Article
of the Family Court Act

Docket No.

REFERRAL TO SUPPORT
MAGISTRATE and TEMPORARY
ORDER OF SUPPORT¹

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;
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.**

A petition in this proceeding, dated: _____, _____, _____ having been filed in this
Court, and it appearing that the Court has jurisdiction over the parties and that there is an issue of
support; and

Respondent having appeared before this Court to answer the petition and to show why an
order of Support and other relief requested in the petition should not be granted; and Respondent, after
having been advised of the right to counsel, having denied admitted the allegations of the petition;

The name, address and telephone number of Respondent's current employer(s) are:

NAME ADDRESS TELEPHONE

¹For use where original petition is not filed pursuant to Article 4.

NOW, after examination and inquiry into the facts and circumstances of the case (and after hearing the proof and testimony offered in relation thereto), it is

ORDERED and that the above-named Respondent, upon notice of this order, pay or cause to be paid to [specify]: Petitioner Support Collection Unit at _____, the sum of \$ _____ weekly, every two weeks, monthly, twice per month, quarterly, such payments to commence on _____, allocated as follows: for and toward the support of _____, spouse, the sum of \$ _____, weekly, every two weeks, monthly, twice per month, quarterly and for _____ and toward the support of the child(ren), the sum of \$ _____ weekly, every two weeks, monthly, twice per month, quarterly;

Name Date of Birth Last 4 Digits of Soc. Sec.# Amount

Spouse:

Child(ren):

Total:

ORDERED that, pursuant to Domestic Relations Law §236B(1)(a), payments for the support of the spouse shall terminate upon death of the spouse, upon the spouse's valid or invalid marriage or upon modification in accordance with Domestic Relations Law §236B(9) or 248; and it is further

ORDERED that commencing on _____ the above-named Respondent, upon notice of this Order, pay or cause the above amount(s) to be paid to [check applicable box]:
 Petitioner 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

[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 it is further

[Check box if applicable]: ORDERED that, for the following reason(s)[specify]:

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,⁶ 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

ORDERED that 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 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, dental, optical, prescription drug and health care services or other health-related benefits]:

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 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]:
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

⁶ “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.

[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.

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]:

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;

; and it is further

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, documents, or instruments to assure timely payments of any health insurance claim for said defendant(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) 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

[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

ORDERED that the Respondent is directed to:⁷

seek employment

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

; and it is further

ORDERED that Respondent shall have the following rights of visitation with respect to the child(ren)[specify]:⁸

[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 the issue of support is hereby referred to a Support Magistrate for final determination pursuant to Sections 439 and 439-a of the Family Court Act; and it is further

ORDERED that [specify]:

ENTER

Judge of the Family Court

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]: _____

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

⁷ Inapplicable if support obligor is receiving SSI or social security disability benefits. See FCA §437-a.

⁸ Judicial orders only.

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.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.