

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)  
9/2008

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 SUPPORT<sup>1</sup>

Petitioner,

S.S.#

-against-

Respondent

S.S.#

.....  
**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

---

<sup>1</sup>For 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;

<u>Name</u>	<u>Social Security #</u>	<u>Date of Birth</u>	<u>Amount</u>
-------------	--------------------------	----------------------	---------------

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: N.Y.S. Office of Temporary and Disability Assistance by check or money order payable to and mailed to P. O. Box 15365, Albany, NY 12260. The county name and account number for the matter must be included with the payment for identification purposes.
- IV-D cases: Support Collection Unit made by check or money order payable to and mailed to N.Y.S. Child Support Processing Center, P. O. Box 15363, Albany, NY 12212-5376. 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,<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

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 would be 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>
-------------	------------------------------	--------------------------------	-----------------

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, it is hereby

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

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

---

<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.

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**

This Court having found that neither of the parties have health insurance coverage available to cover the child(ren), it is hereby

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]:

; 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]:  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 Respondent shall have the following rights of visitation with respect to the child(ren)[specify]:<sup>7</sup>

**[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

<sup>7</sup> Judicial orders only.

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.

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 LAW GUARDIAN UPON THE APPELLANT, WHICHEVER IS EARLIEST.