

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 under
Article (4)(5-B) of the Family Court Act

(Commissioner of Social Services, Assignee,
on behalf of _____, Assignor)

Petitioner,

S.S.#: xxxx-xx- _____

-against-

Respondent.

S.S. #: xxxx-xx- _____

.....

Docket No.

ORDER OF
DISPOSITION
(Violation of
Support Order)

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 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.¹

The Petitioner having filed a petition in this Court, dated _____, alleging that the Respondent failed to obey the order of this Court dated _____, directing payment of support for the dependents indicated therein, and

The name, date of birth and social security number (last four digits) of the child(ren) is/are:
NAME DATE OF BIRTH LAST 4 DIGITS OF SOC. SEC. #

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

The matter having been heard before this Court;

[Applicable in cases involving spousal support or maintenance] And the Respondent having shown failed to show good cause for failure to make applications for relief from the order of this Court directing payment prior to the accrual of the arrears;

NOW, after examination and inquiry into the facts and circumstances of the case and after hearing the proof and testimony [Check applicable boxes]:

IT IS HEREBY

ADJUDGED that the petition alleging a violation is not sustained and the petition is hereby DISMISSED;

OR

ADJUDGED that the Respondent failed to obey the order of this Court and the petition is hereby SUSTAINED; and it is further

ADJUDGED that the Respondent's failure was was not wilful

¹ A recommendation by a Support Magistrate for incarceration is subject to confirmation by a judge and is not subject to the objection process. See F.C.A. §§439(a), 439(e).

said arrears and further directs that such arrears are not to be certified to the State Tax Commission pursuant to section 171-c of the Tax Law; 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 that the Respondent is hereby placed on probation for _____ months under the supervision of the _____ County Probation Department; and it is further

[JUDICIAL ORDER ONLY]: ORDERED that the Respondent is hereby committed to _____ County jail for a period of _____ weeks days; and it is further

[SUPPORT MAGISTRATE ORDER ONLY] RECOMMENDED that the Respondent be committed to County jail, subject to confirmation by a Judge of this Court;³ and it is further

[IV-D public assistance cases only]: ORDERED that the Respondent participate in the following work activities [specify program]: _____; and it is further

ORDERED that the Respondent shall provide an undertaking for support pursuant to Section 471 of the Family Court Act; and it is further

ORDERED that an order of sequestration shall be entered pursuant to Section 457 of the Family Court Act; and it is further

ORDERED that Respondent pay counsel fees in the amount of \$ _____ to _____, attorney for the Petitioner
 _____, attorney for _____, a person acting on behalf of the child(ren); and it is further

ORDERED that the New York State Department of Motor Vehicles
 Other State Professional or Business Licensing Entity [specify]: _____
commence proceedings to suspend Respondent's
 motor vehicle operator's license
 professional or trade license or permit
 recreational or sporting license or permit [specify]:⁴

³ A recommendation by a Support Magistrate for incarceration is subject to confirmation by a judge and is not subject to the objection process. *See* F.C.A. §§439(a), 439(e).

⁴ Applicable in cases where Respondent has accumulated child support or combined child support and spousal maintenance arrearage equivalent to or in excess of the amount of current support due for a period of four months. This amount does not include retroactive support ordered. This provision is inapplicable to cases where Respondent is receiving family assistance or supplemental security income, has an income below the self-support reserve or has an income which would fall below the self-support

; and it is further

[SUPPORT MAGISTRATE ORDER ONLY]: ORDERED that the determination pursuant to Section 156 of the Family Court Act made herein that Respondent willfully failed to obey an order of the Court is hereby referred to a Judge of this Court for confirmation in accordance with Section 439-a of the Family Court Act; 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, dental, optical, prescription drug and health care services or other health care 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

[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]:

; 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, 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 payment 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) 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 the Respondent is directed to:⁵

seek employment

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

⁵ Inapplicable where support obligor is receiving SSI or social security disability benefits. See FCA §437-a.

; and it is further

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

[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]: _____

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.