



STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES
LANSING

JENNIFER M. GRANHOLM
GOVERNOR



IV-D MEMORANDUM 2010-002

TO: Local Funding Unit Staff Submitting Cooperative Reimbursement Program (CRP) Billing Statements
Office of Child Support (OCS) Contract Management Staff
All Prosecuting Attorney (PA) Staff
All Friend of the Court (FOC) Staff

FROM: Marilyn F. Stephen, Director
Office of Child Support

DATE: March 17, 2010

SUBJECT: **REVISED:** Final Judgment or Order Fees As Program Income on Cooperative Reimbursement Program (CRP) Billing Statements

RESPONSE DUE: None

POLICY EFFECTIVE DATE: January 8, 2010

PURPOSE:

This IV-D Memorandum:

- Replaces and obsoletes Action Transmittal (AT) 2006-019, *Final Judgment or Order Fees as Program Income on CRP Billing Statements*;
- Provides a change bar in the right margin of the document to signify procedural changes to the memorandum;
- Provides information on how staff must report certain final judgment or order fees on monthly CRP billing statements. Under Michigan Compiled Law (MCL) Section 600.2529,¹ petitioners before the court requesting a final judgment or order pay \$40 or \$80 in fees to the court. A portion of these fees funded the bench warrant fund maintained by the Department of Treasury. However, Public Act 238 of 2009 repealed the bench warrant fund, effective January 8, 2010; and
- Provides instruction to PA and FOC staff before the court assesses this fee to a current IV-A or current non-IV-A Medicaid case.

UPDATE(S):

Manual

Form(s)

¹ The statute states, "(d) Before entry of a final judgment or order in an action in which the custody, support, or parenting time of minor children is determined or modified, the party submitting the judgment or order shall pay..." either \$40 or \$80.

BACKGROUND:

The federal Office of Child Support Enforcement (OCSE) reimburses 66 percent of the eligible costs related to operating a program under United States Code (USC) Title 42, Chapter 7, Subchapter IV, Part D. These eligible costs must be the net costs of operating the program after accounting for any program income earned under the IV-D program.²

In Michigan, counties assume many of the operating costs for the IV-D program under a CRP with the Department of Human Services (DHS). Counties request reimbursement of the IV-D operating costs through billings submitted on the *Title IV-D Cooperative Reimbursement Actual Expenditure Report* (DHS-286).³ The state reimburses the counties for 66 percent of the eligible operating costs associated to the IV-D program.

MCL 600.2529 requires petitioners to pay fees before filing a judgment or order issued in a support or custody matter. Counties submitting DHS-286 bills on behalf of the FOC or combined counties report these fees on Line 8 of the DHS-286.

ASSESSING THE FINAL JUDGMENT OR ORDER FEES ON IV-D CASES:

Pursuant to the State Court Administrative Office (SCAO) memorandum dated September 28, 2004,⁴ the fee is not collected when the person seeking the entry of the judgment or order is a public official acting in his/her capacity. This includes an FOC or PA filing the judgment or order on a IV-D case. Pursuant to this SCAO memorandum, if the PA or FOC petitions the court for the judgment or order, the fee is not collected.

If the fee is waived for any reason and either party contests the action, the SCAO memorandum indicates that the court may assess the fee to either or both parties to the case. Before the court assesses this fee, PA or FOC staff must inform the court of the current-assistance, former-assistance, or never-assistance status of the case. The PA or FOC staff must also inform the court of the federal regulatory prohibitions against assessing fees on current IV-A and current non-IV-A Medicaid cases. (Ref: 45 CFR 302.33[a] and 45 CFR 302.33[d][1].)

FINAL JUDGMENT OR ORDER FEES AS PROGRAM INCOME:

MCL 600.2529, as modified by Public Act 239 of 2009, states that the party submitting the judgment or order must pay a fee before the court issues the final judgment or order. This fee must be:

- \$80 in an action in which custody or parenting time is determined; or
- \$40 in an action in which the support of a minor child(ren) is determined or modified.

² Title 42, USC Section 655(a), and Title 45, Code of Federal Regulations (CFR) Part 304, Section 50 (45 CFR 304.50)

³ The FIA-286 will be renamed the DHS-286 when all supplies of the form have been exhausted.

⁴ <http://courts.michigan.gov/scao/services/focb/communications/09-28-042004FOCLegislation.pdf>

Note: If the order addresses both support of a minor child(ren) and either custody or parenting time, only the \$80 fee is assessed.

The statute requires the \$80 fee paid by the petitioner when submitting a final judgment or order to determine custody or parenting time and is, therefore, related to a non-IV-D function. The \$80 collected is not IV-D program income, but is income to the custody and parenting time program. The statute requires the \$40 fee paid by the petitioner when submitting a final judgment or order to establish or modify support for a minor child(ren), and is, therefore, related to a IV-D function. This means that fees collected when assessed for court orders related to the support of a minor child(ren) on a IV-D case must be considered IV-D program income. (Ref: the “Assessing the Final Judgment or Order Fees on IV-D Cases” section of this memorandum for the rare instances in which the fee may be assessed on IV-D cases.) Decisions made by a federal appeals court⁵ influenced OCS when OCS made this determination. These fees are considered program income even when:

- An entity other than a IV-D agency collected the fees; or
- The law designates the money spent on non-IV-D program activities (such as a county’s general fund).

The county must include the final judgment or order fees collected as program income on all CRP DHS-286 billing statements.

Public Act 239 of 2009, effective January 8, 2010, amended MCL Section 600.2529(4) to delete the provision that required that out of each \$80 and \$40 collected, \$10 was designated to the bench warrant fund. Since there is no longer a bench warrant fund, counties are not required to send the \$10 to the State of Michigan and there is no requirement for the \$10 to be spent on bench warrant enforcement.

Effective for Final Judgment Fees Collected January 8, 2010 and Thereafter: Reporting the Final Judgment Fees As Program Income

Counties submitting bills:

- For either an FOC or combined FOC/PA **must include** \$40 of each \$40 final judgment or order fee collected within the county as **IV-D** program income (when assessed against a IV-D case);
- For either an FOC or combined FOC/PA **must include** \$80 of each \$80 final judgment or order fee collected within the county as **parenting time or custody** program income (whether the fee was collected on a IV-D case or not);⁶ and

⁵ Pennsylvania vs. U.S. Department of Health and Human Services, 80 F.3d 796 (1996)

⁶ The money collected from this fee is sent to the FOC 215 fund. As such, the PA does not have authority to spend these funds, and will not report these funds collected as program income.

- Solely for the PA **must not include** any final judgment or order fees collected within the county as program income, either as **IV-D** program income or for **parenting time and custody** program income.

The following table, effective for final judgment fees collected beginning January 8, 2010, displays the variations on the appropriate entities to report collections as IV-D program income or as parenting time and custody program income on monthly CRP DHS-286 billing statements:

Fee Type Entity Contracted	On IV-D Cases		On Non-IV-D Cases
	\$40 final judgment or order fee (for orders including only support of a minor child[ren])	\$80 final judgment or order fee (for orders including custody or parenting time)	\$40 or \$80 final judgment or order fee
FOC or Combined (FOC and PA)	Do report \$40 of each \$40 fee collected as IV-D program income.	Do not report as IV-D program income. Do report \$80 of each \$80 fee as parenting time and custody program income.	Do not report any part of \$40 fee as IV-D program income. Do report \$80 of \$80 fee as parenting time and custody program income.
PA	Do not report either fee as IV-D program income or parenting time and custody program income.	Do not report either fee as IV-D program income or parenting time and custody program income.	Do not report either fee as IV-D program income or parenting time and custody program income.

Note: The January 2010 CRP DHS-286 billing statement will include final judgment fees collected before January 8, 2010 and final judgment fees collected January 8 through the end of the month. Therefore, the January 2010 DHS-286 CRP billing will have a combination of the reporting identified in this memorandum and the reporting identified in the obsolete AT 2006-019.

COMPLETING THE CRP DHS-286 BILLING STATEMENT:

Staff completing the DHS-286 must include the final judgment fees or order fees assessed against a IV-D case collected as IV-D program income in accordance with the above table. This is true whether the fee was collected by the local FOC office or if the fee was paid at the office of the clerk of court.

Staff do not need to include as IV-D program income:

- Fees assessed that were not paid; or
- Fees assessed when the order includes custody or parenting time judgments or orders.

NECESSARY ACTION:

This IV-D Memorandum replaces and obsoletes AT 2006-019, *Final Judgment or Order Fees as Program Income on CRP Billing Statements*. Retain this IV-D Memorandum until further notice.

REVIEW PARTICIPANTS:

Financial Work Improvement Team
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SCAO, Friend of the Court Bureau

SUPPORTING REFERENCES:

Federal
42 USC 655(a)
45 CFR 304.50

State
MCL 600.2529
Public Act 239 of 2009
Public Act 238 of 2009

ATTACHMENT:

DHS-286: *Title IV-D Cooperative Reimbursement Actual Expenditure Report*

MFS/DN