



STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES
LANSING



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IV-D MEMORANDUM 2011-001

TO: All Friend of the Court (FOC) Staff
All Prosecuting Attorney (PA) Staff
All Office of Child Support (OCS) Staff

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

DATE: January 14, 2011

SUBJECT: New Intergovernmental Federal Regulations

RESPONSE DUE: None

POLICY EFFECTIVE DATE: January 3, 2011

PURPOSE:

This IV-D Memorandum outlines new federal regulations for establishing and enforcing intergovernmental support obligations in IV-D cases that receive services under Title IV-D of the Social Security Act (the Act).

High-level goals of the new regulations are to:

- Mold a more comprehensive regulation that serves tribes and foreign nations in addition to states;
- Clarify and differentiate between specific roles and responsibilities in state IV-D initiating and responding agencies;
- Recognize and incorporate electronic communication advancements; and
- Conform to federal compliance audits and state self-assessment requirements.

The new regulations also contain significant changes that will dramatically modify the way the Michigan IV-D agencies conduct intergovernmental business. These changes include:

- Requiring the responding state to pay genetic testing costs;
- Providing order and payment record information for determination of controlling order and reconciliation of arrearages within 30 working days of the request by a state IV-D agency;

<p>UPDATE(S):</p> <p><input type="checkbox"/> Manual</p> <p><input type="checkbox"/> Form(s)</p>

- Providing annual notice to responding agencies regarding the amount of interest charges owed on overdue support on an initiating state order and upon request in an individual case;
- Case closure revisions; and
- Assigning state tribunal responsibility for determination of controlling order in multiple-order cases.

Minor changes within the regulations include replacing the term “interstate” with the term “intergovernmental,” clarifying IV-D agency responsibilities, and expanding the scope from interstate to all intergovernmental IV-D cases. In addition, some sections of the regulations have been reorganized and renumbered.

This memorandum discusses the revisions of existing regulations and any new components added to the regulations. IV-D workers wishing to view comments related to the changes along with the republished regulations must refer to the [Federal Register, Volume 75, No. 127, July 2, 2010, Rules and Regulations.](#)¹

OCS plans to publish comprehensive intergovernmental policy in the near future. At that time, these new federal regulations will be incorporated into sections of the *Michigan IV-D Child Support Manual*. The manual sections will highlight relevant shifts in intergovernmental casework for Michigan, emphasize the new federal stance on old topics, and identify Michigan Child Support Enforcement System (MiCSES) changes and enhancement needs.

DISCUSSION:

Selected revised areas of the new intergovernmental regulation discussed in this policy are listed below:

- General Definitions (45 Code of Federal Regulations [CFR] 301.1)
- Standards for Program Operations for the Provision of Services in Intergovernmental IV-D Cases (45 CFR 303.7)
- Case Closure Criteria (45 CFR 303.11)

General Definitions (45 CFR 301.1)

When used in the new regulation, unless the context indicates otherwise, the following definitions have been added to maintain consistency and prevent individual interpretation among state IV-D agencies:

- **Central Authority** means the agency designated by a government to facilitate support enforcement with a foreign reciprocating country (FRC) pursuant to section 459A of the Act.

¹ IV-D workers will find a discussion of the regulation starting on page 38612. The new regulation language begins on page 38641.

- **Controlling Order State** means the State in which the only order was issued or, when multiple orders exist, the State in which the order determined by a tribunal to control prospective current support pursuant to the UIFSA² was issued.
- **Country** means a foreign country (or a political subdivision thereof) declared to be an FRC under section 459A of the Act and any foreign country (or political subdivision thereof) with which the State has entered into a reciprocal arrangement for the establishment and enforcement of support obligations to the extent consistent with Federal law pursuant to section 459A(d) of the Act.
- **Form** means a federally-approved document used for the establishment and enforcement of support obligations whether compiled or transmitted in written or electronic format, including but not limited to the Income Withholding for Support form, and the National Medical Support Notice. In interstate IV-D cases, such forms include those used for child support enforcement proceedings under the UIFSA. Form also includes any federally-mandated IV-D reporting form, where appropriate.
- **Initiating Agency** means a State or Tribal IV-D agency or an agency in a country, as defined in this rule, in which an individual has applied for or is receiving services.
- **Intergovernmental IV-D Case** means a IV-D case in which the noncustodial parent lives and/or works in a different jurisdiction than the custodial parent and child(ren) that has been referred by an initiating agency to a responding agency for services. An intergovernmental IV-D case may include any combination of referrals between States, Tribes, and countries. An intergovernmental IV-D case also may include cases in which a State agency is seeking only to collect support arrearages, whether owed to the family or assigned to the State.
- **Interstate IV-D Case** means a IV-D case in which the noncustodial parent lives and/or works in a different State than the custodial parent and child(ren) that has been referred by an initiating State to a responding State for services. An interstate IV-D case also may include cases in which a State is seeking only to collect support arrearages, whether owed to the family or assigned to the State.
- **One-State Remedies** means the exercise of a State's jurisdiction over a non-resident parent or direct establishment, enforcement, or other action by a State against a non-resident parent in accordance with the long-arm provision of UIFSA or other State law.
- **Responding Agency** means the agency that is providing services in response to a referral from an initiating agency in an intergovernmental IV-D case.
- **Tribunal** means a court, administrative agency, or quasi-judicial entity authorized under State law to establish, enforce, or modify support orders or to determine parentage.
- **Uniform Interstate Family Support Act** means the model act promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and mandated by section 466(f) of the Act to be in effect in all States.

² Uniform Interstate Family Support Act

Standards for Program Operations for the Provision of Services in Intergovernmental IV-D Cases (45 CFR 303.7)

Section 45 CFR 303.7 was reorganized in the following manner:

- 45 CFR 303.7(a): General Responsibilities
- 45 CFR 303.7(c): Initiating State IV-D Agency Responsibilities
- 45 CFR 303.7(d): Responding State IV-D Agency Responsibilities
- 45 CFR 303.7(e): Payment and Recovery of Costs in Intergovernmental IV-D Cases

Note: 45 CFR 303.7(b) (Central Registry) was not revised and therefore is not discussed in this memorandum.

The language in the revised regulations expands the scope from “interstate” to “intergovernmental” IV-D cases. The modified subsections of 45 CFR 303.7 and 45 CFR 303.11 are cited verbatim below. Italicized annotations appear in parentheses after each excerpt, indicating whether the text is a new requirement or has been revised in some way. Absence of an annotation denotes *no change*.

45 CFR 303.7(a): General Responsibilities

General responsibilities apply to both initiating and responding roles within the state IV-D agency.

- (1) Establish and use procedures for managing its intergovernmental IV-D caseload that ensure provision of necessary services as required by this section and include maintenance of necessary records in accordance with § 302.2 of this part; *(Formerly applied to responding roles only)*
- (2) Periodically review program performance on intergovernmental IV-D cases to evaluate the effectiveness of the procedures established under this section; *(Formerly applied to responding roles only)*
- (3) Ensure that the organizational structure and staff of the IV-D agency are adequate to provide for the administration or supervision of the following functions specified in § 303.20(c) of this part for its intergovernmental IV-D caseload: Intake; establishment of paternity and the legal obligation to support; location; financial assessment; establishment of the amount of child support; collection; monitoring; enforcement; review and adjustment; and investigation; *(Formerly applied to responding roles only)*
- (4) Use federally-approved forms in intergovernmental IV-D cases, unless a country has provided alternative forms as part of its chapter in *A Caseworker’s Guide to Processing Cases with Foreign Reciprocating Countries*. When using a paper version, this requirement is met by providing the number of complete sets

of required documents needed by the responding agency, if one is not sufficient under the responding agency's law; *(Formerly applied to initiating roles only)*

(5) Transmit requests for information and provide requested information electronically to the greatest extent possible; *(New requirement)*

(6) Within 30 working days of receiving a request, provide any order and payment record information requested by a State IV-D agency for a controlling order determination and reconciliation of arrearages, or notify the State IV-D agency when the information will be provided; *(New requirement)*

(7) Notify the other agency within 10 working days of receipt of new information on an intergovernmental case; and

(8) Cooperate with requests for the following limited services: Quick locate, service of process, assistance with discovery, assistance with genetic testing, teleconferenced hearings, administrative reviews, high-volume automated administrative enforcement in interstate cases under section 466(a)(14) of the Act, and copies of court orders and payment records. Requests for other limited services may be honored at the State's option. *(New requirement)*

45 CFR 303.7(c): Initiating State IV-D Agency Responsibilities

There are seven major areas of responsibility for initiating states:

- Determination of Controlling Order
- Use of Long-Arm Jurisdiction
- Referring Cases to Another State for Action
- Necessary Information and Forms
- Initiating State Enforcement Activities
- Initiating State Responsibility for Distribution and Disbursement for Collections
- Initiating State Notice of Case Closure

Specific responsibilities for the initiating state role:

(1) Determine whether or not there is a support order or orders in effect in a case using the Federal and State Case Registries, State records, information provided by the recipient of services, and other relevant information available to the State; *(New requirement)*

(2) Determine in which State a determination of controlling order and reconciliation of the arrearages may be made where multiple orders exist; *(New requirement)*

(3) Determine whether the noncustodial parent is in another jurisdiction and whether it is appropriate to use its one-state remedies to establish paternity and

establish, modify, and enforce a support order, including medical support and income withholding; *(Clarifies text)*

(4) Within 20 calendar days of completing the actions required in paragraphs (1) through (3) and, if appropriate, receipt of any necessary information needed to process the case:

(i) Ask the appropriate intrastate tribunal, or refer the case to the appropriate responding State IV-D agency, for a determination of controlling order and a reconciliation of arrearages if such a determination is necessary; and

(ii) Refer any intergovernmental IV-D case to the appropriate State Central Registry, Tribal IV-D program, or Central Authority of a country for action, if one-state remedies are not appropriate. *(Clarifies text)*

(5) Provide the responding agency sufficient, accurate information to act on the case by submitting with each case any necessary documentation and intergovernmental forms required by the responding agency;

(6) Within 30 calendar days of receipt of the request for information, provide the responding agency with an updated intergovernmental form and any necessary additional documentation, or notify the responding agency when the information will be provided;

(7) Notify the responding agency at least annually, and upon request in an individual case, of interest charges, if any, owed on overdue support under an initiating State order being enforced in the responding jurisdiction; *(New requirement)*

(8) Submit all past-due support owed in IV-D cases that meet the certification requirements under § 303.72 of this part for Federal tax refund offset; *(New requirement)*

(9) Send a request for review of a child support order to another State within 20 calendar days of determining that a request for review of the order should be sent to the other State and of receipt of information from the requestor necessary to conduct the review in accordance with section 466(a)(10) of the Act and § 303.8 of this part;

(10) Distribute and disburse any support collections received in accordance with this section and §§ 302.32, 302.51 and 302.52 of this chapter, sections 454(5), 454B, 457, and 1912 of the Act, and instructions issued by the Office; *(New requirement)*

(11) Notify the responding agency within 10 working days of case closure that the initiating State IV-D agency has closed its case pursuant to § 303.11 of this part, and the basis for case closure; *(New requirement)*

(12) Instruct the responding agency to close its interstate case and to stop any withholding order or notice the responding agency has sent to an employer before the initiating State transmits a withholding order or notice, with respect to the same case, to the same or another employer unless the two States reach an alternative agreement on how to proceed; and *(New requirement)*

(13) If the initiating agency has closed its case pursuant to § 303.11 and has not notified the responding agency to close its corresponding case, make a diligent effort to locate the obligee, including use of the Federal Parent Locator Service and the State Parent Locator Service, and accept, distribute and disburse any payment received from a responding agency. *(New requirement)*

45 CFR 303.7(d): Responding State IV-D Agency Responsibilities

There are six major areas of responsibility for responding states:

- Accepting and Processing Intergovernmental Requests for Service
- Processing Cases When NCP Is Found in a Different State
- Determination of Controlling Order
- Provision of Necessary Services
- Notice of Fees and Costs Deducted
- Case Closure in Direct Income Withholding Cases

Specific responsibilities for the responding state role:

(1) Accept and process an intergovernmental request for services, regardless of whether the initiating agency elected not to use remedies that may be available under the law of that jurisdiction; *(New requirement)*

(2) Within 75 calendar days of receipt of an intergovernmental form and documentation from its central registry:

(i) Provide location services in accordance with § 303.3 of this part if the request is for location services or the form or documentation does not include adequate location information on the noncustodial parent;

(ii) If unable to proceed with the case because of inadequate documentation, notify the initiating agency of necessary additions or corrections to the forms or documentation;

(iii) If the documentation received with a case is incomplete and cannot be remedied without the assistance of the initiating agency, process the case to the extent possible pending necessary action by the initiating agency;

(3) Within 10 working days of locating the noncustodial parent in a different State, the responding agency must return the forms and documentation, including the new location, to the initiating agency, or, if directed by the initiating agency, forward/transmit the forms and documentation to the central registry in the State where the noncustodial parent has been located and notify the responding State's own central registry where the case has been sent;

(4) Within 10 working days of locating the noncustodial parent in a different political subdivision within the State, forward/transmit forms and documentation to the appropriate political subdivision and notify the initiating agency and the responding State's own central registry of its action;

(5) If the request is for a determination of controlling order:

(i) File the controlling order determination request with the appropriate tribunal in its State within 30 calendar days of receipt of the request or location of the noncustodial parent, whichever occurs later; and

(ii) Notify the initiating state agency, the Controlling Order State and any state where a support order in the case was issued or registered, of the controlling order determination and any reconciled arrearages within 30 calendar days of receipt of the determination from the tribunal. *(New requirement)*

(6) Provide any necessary services as it would in an intrastate IV-D case, including:

(i) Establishing paternity in accordance with § 303.5 of this part and, if the agency elects, attempting to obtain a judgment for costs should paternity be established;

(ii) Establishing a child support order obligation in accordance with § 302.56 of this chapter and §§ 303.4, 303.31 and 303.101 of this part;

(iii) Reporting overdue support to Consumer Reporting Agencies in accordance with section 466(a)(7) of the Act and § 302.70(a)(7) of this chapter; *(New requirement)*

(iv) Processing and enforcing orders referred by an initiating agency, whether pursuant to UIFSA or other legal processes, using appropriate remedies applied in its own cases in accordance with §§ 303.6, 303.31, 303.32, 303.100 through 303.102, and 303.104 of this part, and submit the

case for such other Federal enforcement techniques as the State determines to be appropriate, such as administrative offset under 31 CFR 285.1 and passport denial under section 452(k) of the Act;

(v) Collecting and monitoring any support payments from the noncustodial parent and forwarding payments to the location specified by the initiating agency. The IV-D agency must include sufficient information to identify the case, indicate the date of collection as defined under § 302.51(a) of this chapter, and include the responding State's case identifier and locator code, as defined in accordance with instructions issued by the Office; and

(vi) Reviewing and adjusting child support orders upon request in accordance with § 303.8 of this part; *(Clarifies text)*

(7) Provide timely notice to the initiating agency in advance of any hearing before a tribunal that may result in establishment or adjustment of an order; *(Clarifies text)*

(8) Identify any fees or costs deducted from support payments when forwarding payments to the initiating agency in accordance with paragraph (d)(6)(v) of this section;

(9) Within 10 working days of receipt of instructions for case closure from an initiating State agency under paragraph (c)(12) of this section, stop the responding State's income withholding order or notice and close the intergovernmental IV-D case, unless the two States reach an alternative agreement on how to proceed; and *(New requirement)*³

(10) Notify the initiating agency when a case is closed pursuant to §§ 303.11(b)(12) through (14) and 303.7(d)(9) of this part. *(Clarifies authority)*

45 CFR 303.7(e): Payment and Recovery of Costs in Intergovernmental IV-D Cases

Regulations in this subsection are as follows:

(1) The responding IV-D agency must pay the costs it incurs in processing intergovernmental IV-D cases, including costs of genetic testing. If paternity is established, the responding agency, at its election, may seek a judgment for the

³ Although the case in MiCSES must be changed from IV-D to non-IV-D under this requirement, this does not change the statutory requirement to maintain an open FOC case per Michigan Compiled Law (MCL) 552.505a.

costs of testing from the alleged father who denied paternity; *(Reorganizes and revises requirements)*⁴

(2) Each State IV-D agency may recover its costs of providing services in intergovernmental non-IV-A cases in accordance with § 302.33(d) of this chapter, except that a IV-D agency may not recover costs from an FRC or from a foreign obligee in that FRC, when providing services under sections 454(32) and 459A of the Act. *(Emphasizes reciprocity with FRCs)*

Case Closure Criteria (45 CFR 303.11)

A case is eligible for case closure if:

(b)(12) The IV-D agency documents failure by the initiating agency to take an action which is essential for the next step in providing services;

(b)(13) The initiating agency has notified the responding State that the initiating State has closed its case under § 303.7(c)(11); and *(New requirement)*

(b)(14) The initiating agency has notified the responding State that its intergovernmental services are no longer needed. *(New requirement)*

NECESSARY ACTION:

Retain this IV-D Memorandum until further notice.

REVIEW PARTICIPANTS:

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⁴ For more information, refer to IV-D Memorandum 2011-002, *New Title IV-D Genetic Testing Contract and Changes in Responsibility for Payment of Genetic Testing Costs*. This memorandum is expected to be published the week of January 23, 2011.

CC:

Steve Capps, State Court Administrative Office (SCAO)
Kirsten Thompson, MiCSES Technical Communications Team

SUPPORTING REFERENCES:

Federal Register, July 2, 2010
UIFSA
Full Faith and Credit for Child Support Orders Act (FFCCSOA)
Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)

ATTACHMENT(S):

None

MFS/MBG