

**Additional Questions and Answers  
Regarding Section 4.06, “Paternity Disestablishment”**

**Q: What are the goals of this policy?**

A: This policy addresses situations in which the party(ies) suspect that the legal father is not or cannot be the biological father, and the party(ies) have themselves filed a motion under the Revocation of Paternity Act (RPA), or other action, to name the correct biological father. It addresses situations in which the court agrees that the party(ies) have standing, and the court has determined it is proper to order genetic testing. It helps the court and the party(ies) access the benefits of the Office of Child Support’s (OCS’s) genetic testing contract. Ultimately, the goal of this policy is to identify the correct biological father following the court’s lead.

**Q: Is it true that under this policy, IV-D staff cannot initiate a filing under the RPA upon request from a parent or alleged father?**

A: Yes, IV-D staff are not permitted to initiate an action under the RPA. The IV-D program’s service and reimbursement is triggered only by a court’s order for genetic testing in response to a party’s RPA motion. IV-D staff will not prepare a motion on behalf of a parent; it is the responsibility of one of the parties to prepare and file the motion. Then, once the court reviews the action, finds standing, and orders the genetic test, IV-D staff may arrange for genetic testing if it meets the eligibility criteria in Section 4.06, “Paternity Disestablishment,” of the *Michigan IV-D Child Support Manual*.

**Q: The Prosecuting Attorney established paternity for the child based on a court action referral from OCS. The policy implies that the IV-D program and the county IV-D office will participate in *disestablishing* the father named on that IV-D-established order. Is that intended?**

A: Yes. If the court has determined that a genetic test is appropriate, whether it be a second test or first test, the IV-D program will provide that service and seek to establish the correct biological father. OCS understands that IV-D-initiated paternity orders (whether the legal father participated or not), and *Affidavits of Parentage* that IV-D staff coordinated may have established the incorrect man as the father.

**Q: The policy indicates that if IV-D services are to be provided, establishment of the new father must occur in conjunction with the disestablishment of the current legal father or soon after the disestablishment. A divorce filing and judgment cannot establish paternity for a man who is not the husband. Is that intended?**

A: Yes. If the divorce disestablishes the husband as the legal father, the IV-D program will immediately take all appropriate action to establish a new legal father.

**Q: The legal father must have notice before taking action that could lead to disestablishment. This policy does not acknowledge that requirement. It states that only the mother and alleged father must participate. Is that intentional?**

A: Yes. This policy establishes the services the IV-D program will provide in supporting an action that is a court responsibility. It is assumed the court, the judge, and the parties

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have taken the appropriate steps pursuant to state law, court rules, and case law. The IV-D worker *may* confirm whether or not the court and parties have taken the appropriate action(s) (e.g., served the legal father) and advise others if it has not been done. But the policy intentionally does not make the notification to the legal father a IV-D responsibility.

**Q: Sometimes the mother cannot be located, or she is uncooperative, and yet the legal father provides information to the court and others that he cannot possibly be the biological father. Is the mother’s cooperation necessary? What if the court orders genetic testing knowing the mother is not cooperative?**

A: The mother’s cooperation is necessary and must be apparent if the IV-D program provides the genetic testing service. OCS has determined it is inappropriate for the IV-D program to take action against the mother or her wishes.

The IV-D program’s legal responsibility is to ensure children have two legal parents. When the IV-D program works against the wishes of one legal parent (the mother) and takes action that could lead to her becoming an *only* parent, that is a challenging position for the IV-D program to take. The parties can take action on their own to obtain the mother’s cooperation, but neither IV-D services nor IV-D reimbursement will be provided to force the mother to participate in an activity she may oppose.

**Q: Does the court have to order the IV-D program to arrange for genetic tests for the policy to apply?**

A: No, the court needs to order only the genetic testing. OCS is not asking the court to require the IV-D program to arrange for or reimburse the expense associated with genetic testing. If it did, OCS would expect to be a party to the case. The IV-D program wishes to reserve the right to refrain from arranging the tests if the tests do not meet IV-D criteria. If the IV-D program is ordered to provide the tests, that right is lost.

It is unnecessary for the court to order the IV-D program to arrange genetic testing; the IV-D program will do so if the case meets policy criteria.

**Q: Significant legal documentation and filings may be required after genetic test results are returned. What is the IV-D office’s responsibilities for that?**

A: Since a party and not the IV-D office would have initiated the action, OCS recommends IV-D staff suggest to the court that the party draft/initiate the proper documentation and filings. However, if the local IV-D office ends up with this responsibility, IV-D reimbursement will be available.

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**Q: How will parties or judges know that disestablishment services are available?**

A: OCS will work with the State Court Administrative Office to determine the most appropriate communication plan for courts. However, at this time, there will not be an effort to broadly publicize this service to the public.

**Q: What if, due to volume, a county does not have the capacity to perform disestablishment functions?**

A: OCS assumes the increase in providing this service will be negligible. The Friend of the Court and Prosecuting Attorney can work together to determine which office is in the best position to provide the service for the county. If a county does not believe it has the ability to provide this additional disestablishment work, county IV-D leadership must contact their OCS contract manager. The IV-D program must provide the service in all cases meeting the criteria.

**Q: Which office within each county will perform disestablishment functions?**

A: County staff can work together to determine which office is in the best position to provide the service. County IV-D leadership must email their OCS contract manager to inform him/her of their decision by June 30, 2021. The county will include the other county partner on the email to the OCS contract manager. If the county is unable to decide, OCS will assist.