



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES
LANSING

MARIANNE UDOW
DIRECTOR

MICHIGAN IV-D ACTION TRANSMITTAL 2005-027

TO: All Friends of the Court (FOCs)

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

DATE: June 9, 2005

SUBJECT: Receiverships/Trusts/Performance Bonds for Future Support

PURPOSE:

This Action Transmittal (AT):

1. Explains the distinction between IV-D and non-IV-D reimbursable activities with regard to receiverships, trusts and performance bonds; and
2. Explains policy and provides guidance to IV-D staff regarding the establishment of receiverships, trusts and performance bonds in relationship to the Michigan Child Support Enforcement System (MiCSES).

OVERVIEW:

The Office of Child Support (OCS) and State Court Administrative Office (SCAO) staff have produced policy¹ and procedures for FOCs regarding receiverships, trust accounts and performance bonds² guaranteeing future support.

OCS policy staff and SCAO Friend of the Court Bureau (FOCB) Management Analysts agree that maintaining receivership, trust, and performance bond money outside of MiCSES is the most appropriate action. To ensure that the payment is applied to the correct case, FOC staff will receipt the payment as a special instruction payment allocated specifically to the case according to the court's order. The receivership or performance bond must be set up to act in accordance with the court's order.

Funds from receiverships, trusts and performance bonds are not child support **until** the money is due and collected under a court-ordered support obligation. Since the funds are **not** child support until this time, it is inappropriate to hold this money in MiCSES or via the Michigan State Disbursement Unit (MiSDU).

¹ SCAO policy regarding *Bank Accounts for Processing Payments* can be found at:
<http://www.courts.mi.gov/scao/resources/other/scaoadm/2003/2003-04.pdf>

² In regard to bonds, this is distinct from bonds posted in a show-cause hearing.

IV-D AND NON-IV-D REIMBURSABLE ACTIVITIES:

IV-D Reimbursable: Performance Bonds Guaranteeing Future Support

FOC staff activities to obtain performance bonds³ guaranteeing future support is an approved IV-D activity and work to monitor or enforce performance bonds for future support may be completed under the Cooperative Reimbursement Payment (CRP) contract.

Not IV-D Reimbursable: Receiverships and Trusts

When an FOC has a receiver's fiduciary responsibilities as defined in SCAO Administrative Memorandum 2003-04, *Bank Accounts for Processing Payments, Section D Performance Bonds, Liens and Receivership*, activities related to being a receiver are not federally approved IV-D activities. Therefore, the federal government does not permit OCS to reimburse the costs of these activities under the CRP contract.

ESTABLISHING RECEIVERSHIPS/TRUSTS/ PERFORMANCE BONDS:

Although receiverships and performance bonds are treated differently with regard to reimbursement, they are handled similarly in the way they are established. There are two ways receivership, trust and performance bond accounts are established:

- 1. FOCs** - FOCs establish the account and the guidelines for the release of money, according to the SCAO Administrative Memorandum 2003-04.
- 2. Obligor** - The obligor establishes the account with the approval of the FOC, in accordance with the court's order.

Releasing Funds

FOC staff release the funds either manually, outside MiCSES, or automatically, in MiCSES.

- 1. Manual, outside MiCSES** - Funds are released monthly. These funds can be released in either of the following ways:
 - FOC staff request release of the funds directly from the bank account to the FOC if the obligor has **not paid** the current month; or
 - FOC staff request release of the funds directly from the bank account to the non-custodial parent (NCP) if the NCP has **paid all or a portion** of the current month.

³ Defined by SCAO as "money or property that is paid to the court or one of its agents to be used to satisfy future support."

- 2. Automatic, in MiCSES** – The bank automatically releases on a preset schedule to the FOC office. FOC staff receipt the payment from the account into MiCSES. MiCSES applies receipts to current support, then to any arrearages due. FOC staff place the excess monies in suspense, for possible return to the obligor, if the current month is paid in full.

Receipting Money into MiCSES

MiCSES receipts money three ways.⁴

- **Special Instruction** – FOC staff receipt the payment as receipt type ‘4’ (special instruction). MiCSES places the receipt in *Special Instruction – Manual Distribution Required* – (SSPI) suspense code. This is held at the distribution level for seven days, and the FOC office works the holds.
- **Receiverships** – FOC staff receipt the payment as receipt type “P,” specifically designed for use with receiverships, and receipt (identify) the payment to a **specific** court order/docket. This receipt type is docket- or order-specific and will distribute only to that case.
- **Performance Bonds** – FOC staff receipt the payment as receipt type “Z,” specifically designed for use with performance bonds. FOC staff will receipt (identify) the payment to a **specific** court order/docket. This receipt type is docket- or order-specific and will distribute only to that case.

Refunding to the Obligor

MiCSES has two alternatives when FOC staff must refund the payment to the obligor, depending on how the receipt was entered into MiCSES.

1. When the FOC staff member enters the receipt as a Special Instruction, (s)he will refund the payment to the obligor using the *Refund/Return* (RERT) screen.
2. When the FOC staff member enters the receipt as a “P” or “Z” (s)he will:
 - a. Place a *Judicial Hold IV-D Case, Court Case* - MJUC hold on the docket using the *Suspense Management Hold Money (SMHO)* screen;
 - b. Receipt the payment as a receipt type “P” (receivership) or receipt type “Z” (performance bond);⁵
 - c. Refund the payment to the obligor via the RERT screen; and

⁴ As mentioned in the suspense management Customer Information Guide (CIG) published on mi-support on November 5, 2005, the *Manually Designated PrePayment* (MDPP) hold code in MiCSES was designed to accommodate state law that has since been modified. MDPP cannot be used effectively for receiverships, trusts, or bonds, and as such, the hold code on MiCSES will be disabled.

⁵ MiCSES places the receipt in MJUC suspense at the distribution/docket level for up to six months, and the local FOC office works it at any time.

- d. Remove the MJUC hold from the docket. If the MJUC hold is not removed immediately after the “P” or “Z” receipt is refunded, all other payments will go into MJUC hold until the hold is removed.

FOC INTERNAL/EXTERNAL CONTROLS:

FOCs are required to follow internal control requirements specified in SCAO’s “Michigan Court Administration Reference Guide, Section 6 – Fiscal Management, 6-05 Trial Court Financial Management Guidelines,” and any other financial control requirements established for an account used by the FOC that is not a court account. Federal regulations require a separation of cash handling duties for IV-D functions.

Three sections are relevant in this document found at the following link:

http://courts.michigan.gov/scao/resources/publications/manuals/carg/rg_sec6.pdf

- Section 6-05-C contains minimum security safeguards for any automated accounting system within the FOC.
- Section 6-05-D contains minimum internal control guidelines for separation of functions in cash handling.
- Section 6-05-F describes the manner in which the collections functions should be performed.

BANK ACCOUNT RECONCILIATION:

If non-IV-D accounts are established and monitored by the FOC, FOC staff must allocate, as a non-IV-D function, time spent reconciling these receivership and trust accounts. FOC staff must separate the time spent on this activity from reconciling the regular child support cash account for over-the-counter cash received. If FOCs choose to use one bank account for over the counter receipts **and** these receipts, then FOCs must cost-allocate. FOCs must use an appropriate base to allocate the cost. For example, the number of receipts of each type may be an appropriate base. OCS does not need to pre-approve the cost allocation method. However, the method must be a part of the regular cost allocation plan that the FOC submits yearly to OCS.

LEGAL REFERENCES:

Federal

45 CFR 303.104

45 CFR 307.10(b)(2), (4), (5), (7) & (14)

Automated Systems For Child Support Enforcement:
A Guide For States, Objective E-5

State

MCL 552.605c(4)(b)

MCL 552.625

MCL 552.625b

POLICY REFERENCE: MCL 552.631 and 632
MCL 801.252
MCR 2.622
MCR 5.501
SCAO Michigan Court Administration
Reference Guide, Section 6 – Fiscal
Management, 6-05 Trial Court Financial
Management Guidelines

SCAO Administrative Memorandum 2003-04, *Bank
Accounts for Processing Payments*

AT MAINTENANCE: Retain until further notice.

EFFECTIVE DATE: Upon receipt.

REVIEW PARTICIPANTS: Jeff Albaugh, Friend of the Court Association
Dave Clagett, Prosecuting Attorneys
Association of Michigan
Steve Capps, State Court Administrative Office
Financials Work Improvement Team

CONTACT PERSON: Nancy Fredricks
OCS Senior Business Analyst
Fredricksn@michigan.gov
(517) 241-5036

CC: All Prosecuting Attorneys (PAs)
All OCS staff

ATTACHMENTS: None

MFS/NF